

Date: Tuesday, 17 February 2015

Time: 2.00 pm

Venue: Shrewsbury/Oswestry Room, Shirehall, Abbey Foregate, Shrewsbury, Shropshire, SY2 6ND

Contact: Emily Marshall, Committee Officer
Tel: 01743 252726
Email: emily.marshall@shropshire.gov.uk

NORTH PLANNING COMMITTEE

TO FOLLOW REPORT (S)

2 Minutes (Pages 1 - 8)

To confirm the Minutes of the meeting of the North Planning Committee held on 20th January 2015. (Report to Follow)

Contact: Shelley Davies 01743 252719

6 Land at Brookmill, Hampton Wood, Ellesmere (14/02078/FUL) (Pages 9 - 44)

Construction of stables, manege and temporary mobile home and change of use of land from agricultural to equestrian use. (Report to follow)

10 Proposed Residential Development Land Between Aston Road And Church Lane Wem (14/03428/OUT) (Pages 45 - 72)

Outline application for the erection of 50No dwellings (to include access). (Report to follow)

11 Development Land East Of Wem Road Shawbury (14/04558/OUT) (Pages 73 - 92)

Outline application (access for approval) for mixed residential development. (Report to follow)

**14 Land off GreenFields Lane, Market Drayton
(14/03782/OUT) (Pages 93 - 134)**

Outline application (access for approval) for the residential development of up to 250 dwellings; to include demolition of existing structures on site; formation of vehicular accesses from the A53 and Hampton Drive. (Report to follow)



Committee and Date

North Planning Committee

17th February 2015

NORTH PLANNING COMMITTEE

Minutes of the meeting held on 20 January 2015

In the Shrewsbury/Oswestry Room, Shirehall, Abbey Foregate, Shrewsbury, Shropshire, SY2 6ND

2.00 - 5.04 pm

Responsible Officer: Shelley Davies

Email: shelley.davies@shropshire.gov.uk Tel: 01743 252719

Present

Councillor Arthur Walpole (Chairman)

Councillors Paul Wynn (Vice Chairman), Joyce Barrow, Steve Davenport, Pauline Dee, Vince Hunt, David Lloyd, Peggy Mullock and John Cadwallader (Substitute for David Minnery)

109 Apologies for Absence

Apologies for absence were received from Councillors David Minnery (Substitute: John Cadwallader) and Gerald Dakin.

110 Minutes

That the Minutes of the meeting of the North Planning Committee held on 16th December 2013 be approved as a correct record and signed by the Chairman.

111 Public Question Time

There were no public questions, statements or petitions received.

112 Disclosable Pecuniary Interests

Members were reminded that they must not participate in the discussion or voting on any matter in which they had a Disclosable Pecuniary Interest and should leave the room prior to the commencement of the debate.

Councillor P. Wynn declared a non-pecuniary interest in relation to planning application 14/03484/OUT Ash Hall, Ash Magna, Whitchurch, as he knew the land owner.

113 Proposed Residential Development Land East of Teal Drive, Ellesmere, Shropshire (14/03370/FUL)

The Principal Planning Officer introduced the application for the erection of 68 dwellings to include on-site open space provision and drew Members' attention to the schedule of additional letters. It was explained that the application had been considered at the previous meeting held on 16th December 2014 at which Members had been minded to refuse the application. Further information had been provided in the relation to concerns that Members had raised and was contained in the Officer's report which recommended approval of the application.

Brian Udal, local resident, spoke against the proposal in accordance with Shropshire Council's Scheme for Public Speaking at Planning Committees during which a number of points were raised including the following:

- He was speaking on behalf of 100 local residents directly affected by this application;
- Development should accord with an up to date development plan;
- The application was a departure from the development plan and contrary to CS5;
- Too much weight had been given to other considerations;
- The preferred Wharf development offered employment and other benefits to the town;
- The site scored positively for flood risk despite regular flooding occurring; and
- The traffic issues had not been properly addressed.

Councillor Alan Clark, Ellesmere Town Council, spoke against the proposal in accordance with Shropshire Council's Scheme for Public Speaking at Planning Committees during which a number of points were raised including the following:

- He had been a Councillor for 22 years and had seen many changes and development to the Town;
- The Town Council had looked at planning for the Town in the long-term;
- This development would create the type of problems that the Town Council were trying to eradicate such as flooding and traffic issues; and
- He asked the Committee to support the Town Council's long-term plans for Ellesmere.

Penny Bicknell, agent for the applicant, spoke in support of the proposal in accordance with Shropshire Council's Scheme for Public Speaking at Planning Committees during which a number of points were raised including the following:

- A highway network assessment was submitted with the application;
- SAMDev could only be given limited weight;
- Ellesmere was a key town for growth in North West Shropshire;
- This was the first full application for Ellesmere;
- The application was not excessive or inappropriate and was in a sustainable location; and
- Development would be able to start on site in Spring this year.

In accordance with Rule 6.1 of the Council Procedure Rules contained in Part 4 of Shropshire Council's Constitution, Councillor Ann Hartley addressed the Committee as the Local Member, during which a number of points were raised including the following:

- The proposal was not a minor application and would double the size of the existing development;
- Development was needed in the right place for planning for the future;
- SAMDev should be given more weight;
- The Wharf site was the preferred site for development in Ellesmere; and
- Planned development should be taken into account.

The Principal Planning Officer explained that there were unresolved objections in relation to SAMDev and it could only be given limited weight until adoption. It was added that the Wharf development was a long-term plan where housing would not be delivered until a later phase, however, this application would be delivered quickly.

During the ensuing debate the majority of Members repeated the concerns expressed at the previous meeting and considered that greater weight should be given to the emerging SAMDev Policies and saved local plan policies.

The Solicitor gave advice to members about the need to give clear and precise reasons in the event they were minded to refuse the application and these reasons should be capable of being evidenced. The Solicitor then outlined the potential implications that could ensue in terms of a substantial costs award being made against the Council where the reasons were not evidenced or lacked clarity.

RESOLVED:

That Planning Permission be refused contrary to the Officer's recommendation for the following reason:

It was acknowledged that the housing proposed by the development would contribute economically and socially by boosting the housing supply including open market and affordable housing and highway improvements to which weight was given. However it was considered that this was outweighed by the harm identified. The Committee were concerned that the development would result in a unacceptable harm to the open countryside and furthermore weight was given to the fact that the proposed development was not plan led being contrary to both current saved policies of the North Shropshire Local Plan H5 and emerging policies in the Site Allocations and Management of Development DPD, which classified the site as being within open countryside contrary to Shropshire Core Strategy CS4, CS5 and CS6.

114 Land Adj No. 33 Chester Road, Whitchurch (14/02830/OUT)

The Principal Planning Officer introduced the outline application for the erection of 15 dwellings to include access noting the description of development had been amended to read 'up to 15 dwellings'. It was confirmed that Members had attended a

site visit that morning and had assessed the impact of the proposed development on neighbouring properties and the surrounding area.

Mr R Jones, Local resident spoke against the proposal in accordance with Shropshire Council's Scheme for Public Speaking at Planning Committees during which a number of points were raised including the following:

- Local residents were against the development and their concerns had been well documented;
- The Planning Officers report was weighted in favour of the development;
- There were issues of overlooking at the south of the development; and
- There had been little evidence to reassure residents that these issues would be resolved at the reserved matters stage.

Nigel Thorns, agent for the applicant, spoke in support of the proposal in accordance with Shropshire Council's Scheme for Public Speaking at Planning Committees during which a number of points were raised including the following:

- The site was in a sustainable location and closer to services than applications previously approved;
- The site was modest and was hidden from view by houses fronting Chester Road;
- The proposal was not back-land development but a normal estate layout;
- The access for the development had been installed previously to accommodate the proposal; and
- The indicative layout plan addressed the issues of overlooking.

By virtue of the amendment made to Shropshire Council's Constitution, as agreed at the meeting of Council held on 27 February 2014, Councillor Peggy Mullock, as the Local Member, made a statement, and then left the room, taking no part in the debate and did not vote. During her statement a number of points were raised including the following:

- The main concern in relation to the application was the topography of the site which would create overlooking issues;
- The site was too small to accommodate 15 dwellings; and
- She considered the application to be back-land development.

In accordance with Rule 6.1 of the Council Procedure Rules contained in Part 4 of Shropshire Council's Constitution, Councillor Tom Biggins addressed the Committee as the Local Member, during which a number of point were raised including the following:

- A proposal on same side of the road was previously rejected by a planning inspector;
- It was concluded that the development would result in substantial changes to the area;

- The number of dwellings proposed was too high and it was back-land development;
- Bungalows would be more in keeping with the topography of the site;
- The development would create run-off and flood risk for houses down hill; and
- If Members were minded to approve the application, the application should come back to Committee at the reserved matters stage to ensure the issues of drainage, density and type of dwelling were addressed.

Responding to the comments made by the speakers, the Principal Planning Officer advised that the issue of house type was not relevant at this stage but pointed out that it was not appropriate to insist on bungalows across the whole site.

In the ensuing debate, Members continued to express differing views. Some Members continued to support refusal of the application and considered that the proposal would have an adverse impact on the surrounding area. Other Members continued to support approval as per the reasons set out in the report. On the casting vote of the Chairman, it was

RESOLVED:

That Planning Permission be **approved** in accordance with the Officer's recommendation subject to:

- The applicants entering into a S106 agreement to secure the affordable housing contribution;
- The conditions set out in Appendix 1;
- The description of development being amended to read "up to 15"; and
- The application for Reserved Matters being considered by the North Planning Committee.

115 Proposed Residential Development South Of Ash Hall Ash Magna Whitchurch (14/03484/OUT)

The Solicitor reported that there had been a Ministerial statement issued and new guidance in relation to planning obligations and small residential schemes and it was not appropriate to determine the application at this time until the Council had considered these matters.

RESOLVED:

That consideration of this application be deferred to a future meeting of the Committee.

116 67 Aston Street Wem Shropshire (14/01530/REM)

The Principal Planning Officer introduced the reserved matters application (access, appearance, landscaping, layout and scale) pursuant to Permission 08/00033 for proposed re-development of site for mixed use and drew Members' attention to the

schedule of additional letters. It was reported that the car parking provision had been increased to one space per unit.

Councillor Mandy Meakin, Wem Town Council, spoke against the proposal in accordance with Shropshire Council's Scheme for Public Speaking at Planning Committees during which a number of points were raised including the following:

- The development, although small in size, would have a large impact on Wem High Street,
- The access was onto the very congested High street and the visibility was poor;
- The retail unit would create further traffic movements; and
- There were concerns in relation to where refuse bins would be stored.

By virtue of the amendment made to Shropshire Council's Constitution, as agreed at the meeting of Council held on 27 February 2014, Councillor Pauline Dee, as the Local Member, made a statement, and then left the room, and took no part in the debate and vote. During her statement a number of points were raised including the following:

- The proposal would cause parking issues;
- Residents in Market Towns such as Wem relied on their cars;
- The car parking should be increased to 2 spaces per property; and
- Delivery vehicles to the retail unit would cause additional problems.

Having considered the submitted plans Members of the Committee unanimously expressed their support for the Officer's recommendation.

RESOLVED:

That Permission be **granted** in accordance with the Officer's recommendation subject to the conditions set out in Appendix 1 and the applicant entering into a S106 agreement.

117 Land At Brookmill, Hampton Wood, Ellesmere (14/02078/FUL)

The Principal Planning Officer introduced the application for construction of stables, manege and temporary mobile home and change of use of land from agriculture to equestrian use and drew Members' attention to the schedule of additional letters. It was confirmed that Members had attended a site visit that morning and had assessed the impact of the proposed development on the surrounding area. The Principal Planning Officer reported a variation to conditions 13/14 to allow 2 mobile field shelters and advised that if Members were minded to approve the application an additional condition in relation to flood works in accordance with the flood mitigation plan was required.

Mr Leslie Smith, Local resident spoke against the proposal in accordance with Shropshire Council's Scheme for Public Speaking at Planning Committees during which a number of points were raised including the following:

- The Committee should refuse the application and take appropriate enforcement action to remove the unauthorised development;
- The site area had been amended since the application was submitted and now included all the field;
- The report failed to address the suitability of the land from seasonal grazing to intense equestrian use;
- The green meadow was previously grazed only in summer due to it being so wet in winter; and
- The site was an eyesore and the generator that would be used to deliver electricity would cause noise issues.

Councillor Chris Symes, Welshampton & Lyneal Parish Council spoke against the proposal in accordance with Shropshire Council's Scheme for Public Speaking at Planning Committees during which a number of points were raised including the following:

- The Parish Council objected to the application and considered that it would be impossible to sustain an equestrian enterprise on a muddy wasteland;
- The site was unsuitable for livestock and arable farming; and
- The Parish Council questioned who would stable their horses on the site.

Mr Shaun Jones, agent for the applicant, spoke in support of the proposal in accordance with Shropshire Council's Scheme for Public Speaking at Planning Committees during which a number of points were raised including the following:

- The generator to be used on site would only be used until the mains electric was connected and would be housed in a box;
- The building would all be in flood zone 1;
- The enterprise would provide full time employment for the applicant's daughter;
- The applicant was willing to accept the additional conditions
- The horses would be stabled in the winter months; and
- The applicant was determined to make the enterprise a success.

Having considered the submitted plans the majority of Members expressed their objection to the application contrary to the Officer's recommendation.

RESOLVED:

Members were **minded to refuse** Planning Permission against the Officer's recommendation. The Committee raised concern in relation to the visual impact the proposed development would have on the countryside and questioned the viability of the enterprise.

A further report, on reasons for refusal would be considered at a future meeting of this Committee, in accordance with Shropshire Council's Constitution.

118 Appeals and Appeal Decisions

RESOLVED:

That the Schedule of Appeals and Appeal Decisions for the northern area be noted.

119 Date of the Next Meeting

It was noted that the next meeting of the North Planning Committee will be held at 2.00 pm on Tuesday 17th February 2015 in the Shrewsbury Room, Shirehall.

Signed (Chairman)

Date:



Committee and Date

North Planning Committee

17 February 2015

Item

6

Public

Development Management Report

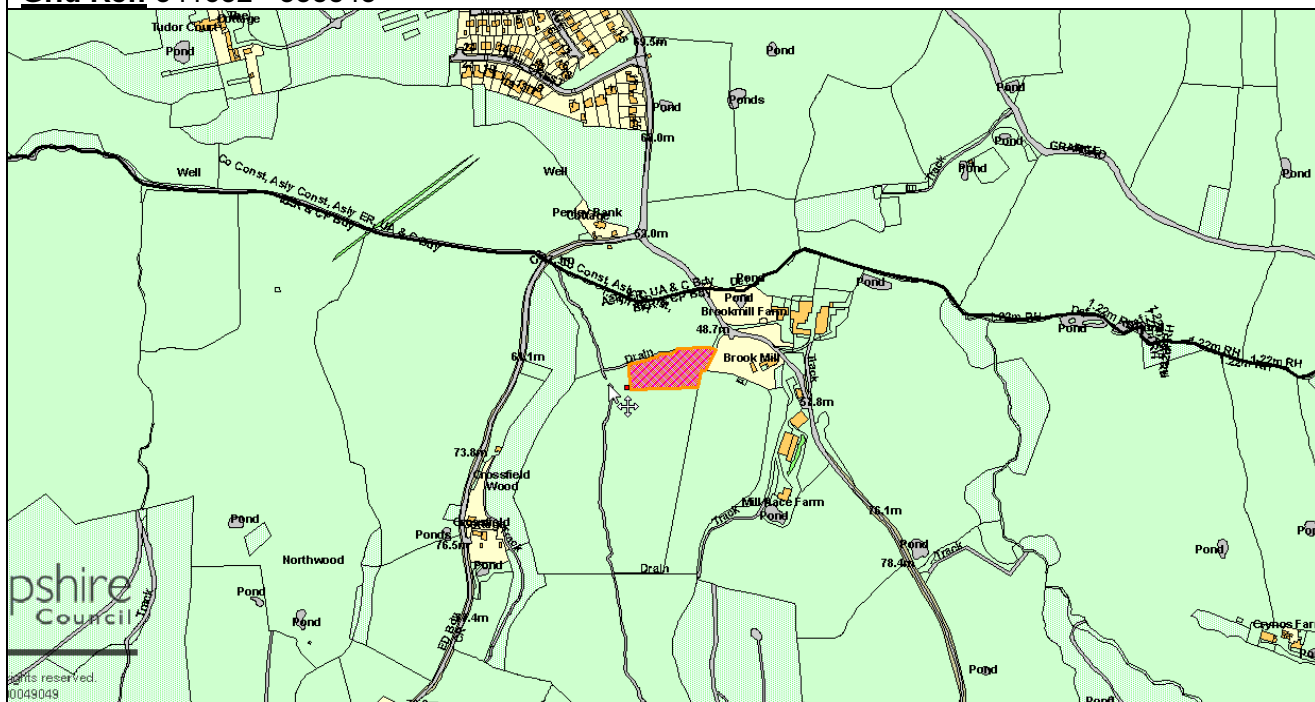
Responsible Officer: Tim Rogers

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

Summary of Application

Application Number: 14/02078/FUL	Parish: Welshampton And Lyneal
Proposal: Construction of stables, manege and temporary mobile home and change of use of land from agricultural to equestrian use.	
Site Address: Land At Brookmill Hampton Wood Ellesmere Shropshire	
Applicant: Mrs M Kelsey	
Case Officer: Janet Davies	email: planningdmnw@shropshire.gov.uk

Grid Ref: 341632 - 338843



© Crown Copyright. All rights reserved. Shropshire Council 100049049. 2011 For reference purposes only. No further copies may be made.

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

REPORT

1.0 THE PROPOSAL

1.1 This report is an addendum to the report presented to members in January 2015 which detailed the proposal for full planning permission for change of use of agricultural land to equestrian use on land at Brookmill, Hampton Wood near the village of Penley. The application site comprises 12 acres of grazing land. The site in 2013 with the objective of relocating her equestrian business to the land. The intention is to secure temporary planning consent for the mobile home for a 3 year period.

The following report seeks to advise members on their resolution that Committee were minded to refuse the application. The minutes of the meeting record that members raised the following concerns:

- Concern in relation to the visual impact the proposed development would have on the countryside
- Viability of the enterprise taking into account ground conditions and the need for the caravan.

2.0 Matters for Consideration

- **Visual impact**
- **Viability of the enterprise**

2.0 Visual Impact

2.1 The application is considered in the light of the National Planning Policy Framework (NPPF) which replaced the majority of national policy statements and guidance including Planning Policy Statement 7 (PPS7), Sustainable Development in Rural Areas.

2.1.1 Part 11 of the framework relates to: Conserving and enhancing the natural environment and is relevant to the consideration of the application. This states that the planning system should contribute to and enhance the natural and local environment by way of a number of measures including the protection and enhancement of valued landscapes, geological conservation interests and soils and wider benefits of ecosystem services. It requires that impacts on biodiversity are minimised, the avoidance of unacceptable levels of soil, air, water or noise pollution or land instability;
to wider ecological networks.'

2.1.2 Furthermore under the Council's adopted Core Strategy policy CS5 'Countryside and Green Belt' seeks to enhance the broader social and economic well-being of rural communities, facilitating development that supports appropriate land and resource based uses and economic diversification and that provides for local needs, including affordable housing, community facilities and infrastructure. It provides recognition that the countryside is a 'living-working' environment which requires support to maintain or enhance sustainability, together with the ability to adapt to the changing needs and circumstances.

2.1.3 Also CS6 'Sustainable Design and Development Principles' seeks to ensure that all 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, and those features which contribute to local character, having regard to national and local design guidance, landscape character assessments and ecological strategies where appropriate.

2.1.4 Paragraph 28 of the NPPF requires planning policies to support economic growth in rural areas in order to create jobs and prosperity by taking a positive approach to sustainable new development. This includes supporting sustainable growth and expansion of all types of business and enterprise in rural areas and the promotion of the development and diversification of agricultural and other land-based rural businesses.

2.1.5 At the meeting held in January 2015 members attention was drawn to the character and appearance of the area and key land uses and buildings adjoining the site from the site visit held on the morning of the meeting . Whilst members were able to view the site in context of the locality the officers report sought to explore the the visual impact of the development and it considered that the visual impact of the proposed caravan and stable block to the wider landscape setting would be relatively minor given its scale and location adjacent to the existing hedgerow and would not appear out place withn a countryside location.

2.1.6 Further to members concern the council commisioned a landscape and visual appraisal (LVA) which was undertaken in accordance with the current published guidelines. The appraisal submitted to the council is summarised as follows.

2.1.7 The landscape of the Brookmill locality and the nearby areas of the Shropshire and Wrexham Maelor landscape were surveyed to establish the potential visibility of the proposed development site from the surrounding areas. The area of potential visibility identified was found to be very much confined to the following local areas:

- the development site and its immediate environs, including the hamlet of Brookmill;
- parts of the elevated farmland on the edges of north side of the stream valley, and to the south-east and south-west of the hamlet.

2.1.8 The restricted visibility of the proposed development site within this small and secluded river valley is largely as a result of local landform and the existing vegetation pattern. The screening effects of belts and blocks of woodland, combined with mature field hedgerows with trees frequently overlapping and being concentrated in the same field of view, serve to very much restrict even medium range views (0.5 to 2kms) across the majority of this this gently rolling lowland plateau landscape to the north of Ellesmere. There are no long range views (beyond 2kms), except those to the hills of Wales on a sector of the western horizon from some sections of the upper northern and eastern edges of the stream valley.

2.1.9 Within the area of potential visibility identified, residential properties, local public footpaths, and the local access road network – including part of a locally-promoted cycle route - were assessed, in order to establish the predicted effects of the proposed development upon views experienced by their residents or users. Only 5 close-range (within 0.5km) residential receptors were identified, all of which are situated either within or on the edge of the valley at Brookmill. Of these, two would be substantially unaffected: the detached property on the north side of the public road to the east of the junction with Ellesmere Lane (0.175kms distant); and the detached property immediately on the east side of the road from Penley towards Ellesmere (0.3kms distant), situated to the north-east of Northwood Hall. The remaining 3 residential properties are the house known as Brook Mill (0.067kms to the east), and the farmsteads at Brook Mill Farm (0.090kms distant) and Mill Race Farm (0.185kms distant). None of these residential receptors would experience a level of residual visual effect which is greater than minor and adverse. The proposed development site is not visible from residential properties on the southern edge of Penley village, nor from those in the detached residential area of Hill Crest/Tudor Drive, due to the effects of intervening landform and vegetation.

2.1.10 The proposed development site would rarely be visible from some sections of the three minor public roads which pass through the rural landscape in the vicinity of the site. These roads include that between Penley and Ellesmere which forms part of the route of a promoted cycle route emanating from Ellesmere. This restricted visibility is as a result of a combination of the local topography and characteristic vegetation cover, the latter comprised of dense road-side hedgerows, often with frequent mature trees, together with intervening blocks and belts of woodland and copses. Views into the steep-sided stream valley are limited to those sections of the roads which run close to the edge of the valley or run down into the valley itself. The resultant residual visual effects on road users would be negligible adverse.

2.1.11 The proposed development site would only be partly visible from sections of two local public rights of way in the Brookmill vicinity. These are public footpaths. To the north-east of the site (at around 157 metres at its closest point) a public footpath runs north-eastwards from the junction with the foot of Ellesmere Lane to meet Grange Road, a minor public road running south-east from Penley towards Welshampton. Partial views of the proposed development site would be obtainable from around 140 metres of this footpath through mature field boundary hedgerows and tree vegetation during the winter aspect. Summer views would be substantially screened. The public footpath running westwards along the north side of the stream

valley would have even more restricted views of the proposed development site, due to the lower elevation of the footpath route and denser intervening woodland, tree and hedgerow vegetation. The resultant residual visual effects on footpath users would be minor adverse for the eastern footpath, and negligible adverse for the western footpath.

2.1.12 Also, within the vicinity of the development site, landscape elements and features were assessed as to what impacts on them would be predicted to arise from the proposed development. The effects on the landscape fabric of this part of the low-lying ground within the stream valley would be very localised: the loss of parts of an improved grassland field to construct the stables, site the mobile home and construct the manège. No hedgerows would be removed or depleted. Parts of the northern site boundary hedgerow would be reinforced by supplementary planting with native hedgerow shrub species. The eastern boundary hedgerow would be similarly supplemented and its line extended for a distance of 40 metres to the south.

2.1.13 Small scale stable buildings and yards associated with rural properties are a common feature in this part of the Shropshire landscape. The proposed development would not introduce new landscape elements. The supplementary hedgerow planting and extended hedgerow would have minor beneficial effects. The overall residual impact on the local landscape is therefore predicted as being negligible and adverse.

2.1.14 It is accepted that new development (operational development and change of use) in the open countryside will change the character and appearance of an area however the degree of harm resulting from any development will need careful consideration to be given by the decision maker. Whilst members were concerned that the proposed development would have a negative visual impact upon this part of open countryside officers consider that following the findings contained within the LVA it is advised that a refusal on these grounds would be weak and one which would put the Council at risk at appeal.

2.2 **Viability of the Enterprise**

2.2.1 Strategic objective 7 within the Core Strategy seeks to support the development of sustainable tourism, rural enterprise, broadband connectivity, diversification of the rural economy, and the continued importance of farming and agriculture, ensuring that development proposals are appropriate in their scale and nature with the character and quality of their location. Underpinning this objective are policies CS5 CS6 and CS13. CS 13 identifies that Shropshire Council, working with its partners, will plan positively to develop and diversify the Shropshire economy, supporting enterprise, and seek to deliver sustainable economic growth and prosperous communities. In doing so, particular emphasis will be placed on amongst other things in rural areas, recognising the continued importance of farming for food

production and supporting rural enterprise and diversification of the economy,

2.2.2

The core strategy is considered to be compliant with the overriding aspirations of the NPPF. Paragraph 28 of the NPPF highlights that planning policies should support economic growth in rural areas in order to create jobs and prosperity by taking a positive approach to sustainable new development. To promote a strong rural economy, local and neighbourhood plans should amongst other things support the sustainable growth and expansion of all types of business and enterprise in rural areas, both through conversion of existing buildings and well designed new buildings and promote the development and diversification of agricultural and other land-based rural businesses.

2.2.3

The Council instructed Reading Agricultural Consultants Ltd (RAC) to undertake a desktop appraisal of the application. RAC appraised the proposed planning application against the government's guidance as detailed in the National Planning Policy Framework (NPPF) in particular paragraphs 55 and 28 and the Shropshire Core Strategy Development Plan Document (March 2011). Whilst officers considered the overriding principles of the PPS 7 RAC have noted that PPS7 Annex A has been revoked (replaced March 2012) and is no longer applicable. Any appraisal that expressly examines an application against the policies within PPS7 is not relevant.

2.2.4

In order for RAC to carry out an appraisal the council forwarded the applicants business appraisal, Design and Access Statement, Supplementary Planning Report, cash flow predictions (2014-2017) and projected Profit and Loss Accounts (2015-2017).

2.2.5

RAC considered the functional need of the business and financial sustainability of the business. The report presented to members in January expanded on the functional and financial needs of the proposed business within paragraphs 6.4 to 6.5.

2.2.6

RAC considered that the standard accepted test for any rural worker's dwelling is that the business generates sufficient profits to provide an adequate return to land, labour and capital and be able to finance the build-cost of the dwelling, or in this case the purchase of a mobile home. Cash flow identifies private drawings well in excess of the minimum wage which is approximately £13,000 together with a reasonable return on the investment plus the forecast cost of the stables and menage and it is considered that these can be met from the projected profit and loss.

2.2.7

RAC has appraised the proposed planning application against the government's guidance as detailed in the National Planning Policy Framework (NPPF) in particular paragraphs 55 and 28 and the Shropshire Core Strategy Development Plan Document (March 2011). RAC would note that PPS7 Annex A has been revoked (replaced March 2012) and is no longer applicable. Any appraisal that expressly examines an application against the policies within PPS7 is irrelevant.

2.2.8

Overall RAC considered that the business accords with paragraph 28 of the NPPF in that there is a reasonable prospect that the business will become a sustainable new enterprise

2.2.9

Ground Conditions - During the course of the application photographs were submitted illustrating the current ground conditions. Members will recall that at the time of the site visit the land immediately adjoining the stables was poached.

2.2.10

Members will recall during the site visit that parts of the land were highly poached however RAC advise this would not be uncommon in periods of prolonged wet weather and where any animals are confined for a time in a small area. As explained to members the operation of the site and the condition and maintenance regimen is a management issue. If poaching of the land was a permanent feature of the land throughout the year and across the whole of the site it would not be considered good practice and may be considered a material consideration - but the weight one could attach to this matter is limited as the applicant is applying to construct a manège – the very type of construction many equine establishments require as a necessity where land is at a premium and to minimise the temporary poaching as seen on site and in photographs submitted by objectors. The agent has submitted an updated design and access statement and has noted that at the current time it has not been possible to operate the site or the business correctly without the necessary buildings and hard standing area.

2.2.11

The use of the land for the keeping of horses is considered to be an appropriate use in the open countryside and whilst parts of the site are within flood zone 2 and 3 the manège and stables would be considered appropriate development, as the outdoor equestrian manege is classed as an outdoor sports recreation area and is water compatible and the stable block which is to be used for livestock accommodation is deemed a less vulnerable use. The stable block will be at the edge of flood zone 3 and partially within zone 2 – as the stable block is not located within zone 3 planning practice guidance and flood risk zone compatibility notes that the use the land for such purposes is deemed appropriate. As part of the submission a flood risk assesment was carried out by Hafren Water and examined by the councils drainage to which no objection has been raised.

2.2.12

Further information has been provided by the applicant showing the two land drainage systems which have been installed using plastic perforated drains. The drainage shows an intensive system primarily at the northern end of the application site with outfalls into the Emerald Brook. It is understood from the drains have had no maintenance for over 10 years and a chamber lid had been knocked off by a previous ploughing contractor. The agent has advised that the applicant will be using a local contractor to jet the drainage system in spring 2015 so that it operates efficiently and will lower the water table across the relevant area and help manage the land .

2.2.13

With regard to poaching of the land the previous report made reference to welfare and health. Under the Animal Welfare Act 2006 it is an offence to cause unnecessary suffering to any animal. The Act also contains a Duty of Care which

means that anyone responsible for an animal must take reasonable steps to ensure the animal's needs are met and its welfare assured. In this case the overall responsibility or 'duty of care' for animal welfare for the horses stabled or under the applicant's care lies with the applicant. The creation of winter stables and menage will bring real benefits in raising welfare standards.

2.2.14 Whilst members were concerned that the condition of the land would affect the viability of the business it is officers opinion that poaching as witnessed on the land would not be uncommon at the time the site visit was carried out particularly where any animals are confined for a time in a small area. The erection of the stables and construction of the menage will create the environs for a higher level of animal welfare during periods of inclement weather and will allow for improved opportunities to manage the land and reduce the occurrence of poaching. The condition of the land as witnessed on site and location of part of the site in flood zone 2 and 3 the condition of the land is not considered to undermine the viability of the business and it is advised that a refusal on these grounds would be weak and one which would put the Council at risk at appeal

2.2.15

Caravan - During the meeting held in January members raised concerns regarding of the need for an essential worker to reside on site in a caravan . As highlighted in the January committee report the proposed equestrian business provides a range of services (not all though would require on-site attendance) and where the breeding, foaling of mares, and sale of her own horses and breaking and schooling of client's horses is expanding. These activities require a great deal of management expertise and attention to detail and a list of activities were set out in a supplementary report itemised under 'Functional Need'.

2.2.16

It is agreed that horses need to be inspected frequently for signs of illness, distress or injury, and equestrian establishments have a duty of care to ensure the rapid diagnosis and treatment of injury, disease or infestation

2.2.17

It is agreed that unforeseen incidents can cover a wide range of situations as described by the applicant, from dealing with emergencies such as a horse cast in its box or a horse with colic, to damage to the stables and associated buildings from the horses, severe weather conditions or fire.

2.2.18

The new stables will provide the necessary accommodation for brood mares and stallions, storage of tack and feed. The menage will allow an exercise, training and schooling area for horses.

2.2.19

The application for the dwelling is for a temporary three year period only and if the applicant's proposed business plan, projected income streams and profit forecast have not materialised at the end of the three years, any future independent appraisal is likely to conclude the business was not sustainable. As noted by RAC this is the very reason for approval of a temporary rural worker's dwelling particularly for a fledgling or new business, if an essential need has been accepted, is to test whether the business is sustainable

3.0

3.1 **Conclusion**

Officers have sought to advise members within this report of the issues raised at the January meeting. Research has been undertaken to provide members with evidence on the issues raised however no evidence has been found which would substantiate a defensible reason for refusal of the application. As such, the officer's recommendation remains the same as that presented at the December meeting, which is that planning permission be granted subject to conditions,

3.2

The proposal for the change of use of land for equine purposes with the erection of stables and construction of menage is a form of rural enterprise that is generally supported under local and national policy. A landscape visual appraisal has been carried out and small scale stable buildings and yards associated with rural properties are a common feature in this part of the Shropshire landscape. The proposed development would not introduce new landscape elements. The supplementary hedgerow planting and extended hedgerow would have minor beneficial effects. The overall residual impact on the local landscape is considered to be negligible.

3.3

Ground conditions of the site are not considered to undermine the viability of the enterprise as the facilities for which planning permission is being sought will assist in future land management issues. The use of the land for the keeping of horses is considered to be a compatible use for land located within flood zone 2 and 3 as highlighted within the planning practice guidance and flood risk zone compatibility notes.

3.4

The need for the caravan has been assessed by RAC and based on the information provided there it is considered that there is an essential need for a resident worker to live on site to ensure the welfare and security of the horses is not compromised and the applicant's business can develop and expand as identified in the business appraisal.

3.5

It is advised that a refusal on the above grounds would be weak and one which would put the Council at risk at appeal.

The proposed equestrian use is deemed to be an appropriate use and scale within its countryside location and it is considered that it is essential to the proper functioning of the rural enterprise for a worker to live on site as verified by the report undertaken by Reading Agricultural. The proposal is therefore deemed to comply with the relevant policies CS5, CS6, CS7, CS11, CS17 and CS18 of the adopted Core Strategy, the adopted SPD (Type and Affordability of Housing) and the NPPF and is recommended for approval.

4.0 Risk Assessment and Opportunities Appraisal

4.1 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.

4.2 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.

4.3 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.

5.0 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.

6.0 Background

Relevant Planning Policies

Central Government Guidance:

West Midlands Regional Spatial Strategy Policies:

Core Strategy and Saved Policies:

RELEVANT PLANNING HISTORY:

13/00668/AGR Open plan barn with double pitched roof, clad with profiled steel sheeting colour green, with timber vertical cladding also coloured green Field shelter also double pitched roof, felted with horizontal feather edged boarding also coloured green, and on skids. PPREQN 20th March 2013

7.0 Additional Information

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

Cabinet Member (Portfolio Holder)

Cllr M. Price

Local Member

Cllr Brian Williams

Appendices

APPENDIX 1 – Committee report presented to members dated 20/1/15
--

Development Management Report

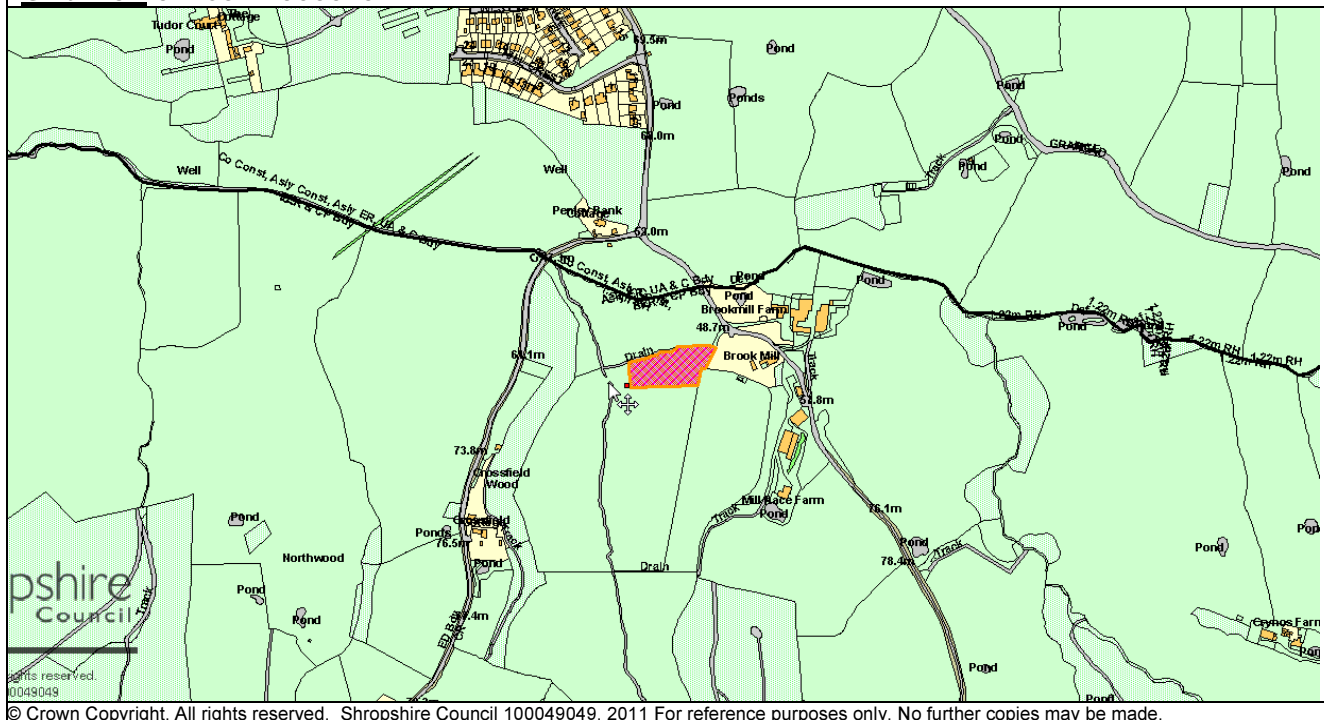
Responsible Officer: Tim Rogers

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

Summary of Application

Application Number: 14/02078/FUL	Parish: Welshampton And Lyneal
Proposal: Construction of stables, manege and temporary mobile home and change of use of land from agricultural to equestrian use.	
Site Address: Land At Brookmill Hampton Wood Ellesmere Shropshire	
Applicant: Mrs M Kelsey	
Case Officer: Janet Davies	email: planningdmnw@shropshire.gov.uk

Grid Ref: 341632 - 338843



© Crown Copyright. All rights reserved. Shropshire Council 100049049. 2011 For reference purposes only. No further copies may be made.

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

REPORT

1.0 THE PROPOSAL

- 1.1 The application seeks planning permission for the construction of a block of 10 stables, a ménage and temporary mobile home and change of use of agricultural land to equestrian use on land at Brookmill, Hampton Wood near the village of Penley. The proposed caravan is to be occupied by the applicant in association with equestrian activities on the site.
- 1.2 The applicant purchased 12 acres of grazing land at the site in 2013 with the objective of relocating her equestrian business to the land. The intention is to secure temporary planning consent for the mobile home for a 3 year period.
- 1.3 The current application is in part retrospective in that the site is already being used for grazing horses and a number of makeshift structures have been introduced onto the site.

2.0 SITE LOCATION/DESCRIPTION

- 2.1. The application site is located approximately half a mile south of the village of Penley and roughly 4½ miles to the north east of Ellesmere in an area of open countryside within a steep sided valley. The site is accessed via a short track off a country lane linking Hampton Wood with Penley and forms part of a larger field also under the ownership of the applicant.
- 2.2 A stream runs in a north/ south directly within 30 metres to the west of the proposal site and dissects the larger field. Also to the west beyond that is a belt of woodland, Crossfield Wood, which also generally follows a north/ south direction.
- 2.3 The site is enclosed by a mix of post and wire fencing with some hedgerow and currently contains a number of unauthorised timber structures and containers.
- 2.4 The nearest residential property is Brook Mill which is situated to the east at a distance of approximately 60 metres from the site boundary. Mill Race Farm is located further to the south, around 180 metres away. To the north east (approximately 90 metres from the site) is Brookmill Farm which is located on the other side of the lane with its access opposite the site entrance.

3.0 REASON FOR COMMITTEE DETERMINATION OF APPLICATION

- 3.1 The Parish Council has objected to the application contrary to the officer recommendation and the local ward member has requested that the application be referred for determination by planning committee in accordance with the Council's 'Scheme of Delegation'.

4.0 Community Representations

- 4.1 - Consultee Comments
- 4.1.1 SC Rights of Way – No objection. The proposal does not appear to affect any

public right of way.

4.1.2 SC Ecology – No objection subject to conditions and informatives relating to landscape, Great Crested Newts, nesting wild birds and bats.

4.1.3 SC Drainage –no objection following submission of additional information subject to condition relating to surface and foul water drainage.

4.2 - Public Comments

4.2.1 Local Ward Member – Object. Proposal conflicts with Policy CS5 by failing to enhance countryside vitality and character and CS18. Do not believe application includes an appropriate sustainable drainage system to manage the water which gathers and lies in this very low lying area.

4.2.2 Welshampton and Lyneal Parish Council - object to the application for the following reasons:

Drainage - the majority of the site is in is within flood zones 2/3 and the flood risk map shows the whole site is in danger of flooding. There is clear evidence of flooding on the land and horses standing in mud. It is therefore highly questionable whether this is a suitable site for an equine business venture of the size proposed.

Highways - The site is set in a rural location with narrow lanes and few passing places. It is unclear from the application form the number of vehicles expected to visit and their size on a regular basis. There are serious concerns whether the road network can cope with additional traffic the proposal will generate.

The site plan does not include a parking area only a turning area. This could lead to vehicles parking by the entrance and blocking the lanes.

General Comments - The Parish Council questions the accuracy of statements made within the application form:

- The description of the proposal does not include change of use from agricultural to commercial.
- The Parish Council has seen evidence of supplementary feeding of horses on the land which therefore should be included in the application.
- Building work has already started on site. The Parish Council has been monitoring the use of this site for some time.
- The application form states there will be no gain of residential units but the application includes permission for a temporary mobile home.
- No additional employees will be required in connection with the proposed business. It is inconceivable that the applicant will be able to cope with the workload of breeding, schooling, breaking and rescue horses on her own. These areas are known to be of high risk of serious injury and should not be carried out as a lone worker.
- Dates and names contained on the form are inconsistent.
- Planning Policy - The application is silent on many aspects or does not provide detailed information in order to justify development under policies CS5, CS6, CS7, CS17 and CS18.
- The NPPF has a presumption in favour of sustainable development.

The Parish Council does not consider the application has proved to be of economic, social or ecological benefit.

4.2.3 A total of 6 objections have been received, one of which has been lodged on behalf of a number of local residents, and raise the following concerns:

- Impact of noise, smell, vermin and flies on neighbouring residential property.
- Overdevelopment of site - proposed buildings will be over bearing in relation to existing property and garden
- Visual impact on the landscape and public footpath ROW1
- Impact on wildlife with loss of flora / fauna
- Issues of drainage and flooding and related pollution. Concerns regarding intention to discharge surface water into existing watercourse. Land is wet with standing water for much of year.
- Previous owners of the land have installed pipe works and an inspection chamber to drain the water.
- The majority of the land is within flood zones 2/3.
- Rainwater should be collected for re-use on site. No mention is made of the run off surface water from the yard.
- Concerns regarding increase in traffic and parking issues. It is expected that there will be at least two cars for the residential element of the application in addition to other persons calling at the site. Delivery and collection of horses and equipment will necessitate the use of large vehicles.
- Access and parking is a major concern. The plan shows a turning area to be stoned but there is no indication of where this stoned area and the concrete for the stables ends.
- Concerns regarding waste disposal of manure.
- Foul Sewage is to be disposed of into a septic tank but no details are given nor location shown on the plan accompanying the application.
- Inaccuracies on the application form. Form states that development has not commenced although hard standing been laid, buildings introduced on site and land use changed.
- The proposal is for a fully commercial stable yard together with a mobile home and it is suspected that a further application for a residential dwelling would be following at the expiry of the three year period. Land is in open countryside where a new dwelling would only be allowed to support a business.
- The application mentions a track to the west of the site but it is difficult to see where the development could be sited on that side as there are trees up to the boundary and the brook runs through the site.
- Applicant refers to specialising in American Paint horses but no evidence has been found of her being a member of the UK Paint Horse Association.
- Applicant has 24 horses and will also have other horses from private clients for breaking and schooling. Proposal does not meet the required standards for grazing without supplementary feeding.
- There is no proven need for a personal presence on the site 24 hours a day. The incidents quoted may not have been prevented by any physical presence on the site.
- The manège is of a standard size for stables. The absence of lighting may have an impact on financial viability of the business.
- Landscaping will not obscure the amount of built development on this site. Trees currently affording protection are not on the application site nor under the control of the applicant.

4.2.6 A total of 15 letters of support have been lodged and make the following points:

- Applicant is an experienced breeder, dealer, breaker and trainer providing equestrian medical care and development is paramount to the continuation of the family business and its work with troubled mistreated horses.
- Have visited the proposed site and seen workers carrying out repairs and unblocking work to drains, to reduce sitting water, but seen no evidence of the brook bursting its banks.
- Land is of good free draining soil and drainage works have been carried out to prevent flooding.
- Site is suitably situated for stables, menage and mobile home, with good access and road networks for the business to succeed.
- Proposal has benefits for local community and will help economy, production of hay, feed, the need for a blacksmiths.
- Proposal will maintain grazing land.

5.0 THE MAIN ISSUES

- Principle of development / Policy Framework
- Details of Proposal
- Background to Proposal
- Appraisal
- Financial sustainability
- Visual Impact and Landscaping
- Drainage
- Highways
- Ecology

6.0 OFFICER APPRAISAL

6.1 Principle of development/Policy Framework

6.1.1 The application is considered in the light of the National Planning Policy Framework (NPPF) which replaced the majority of national policy statements and guidance including Planning Policy Statement 7 (PPS7), Sustainable Development in Rural Areas.

6.1.2 Part 11 of the framework relates to: Conserving and enhancing the natural environment and is relevant to the consideration of the application. This states that the planning system should contribute to and enhance the natural and local environment by way of a number of measures including the protection and enhancement of valued landscapes, geological conservation interests and soils and wider benefits of ecosystem services. It requires that impacts on biodiversity are minimised, the avoidance of unacceptable levels of soil, air, water or noise pollution or land instability; to wider ecological networks.'

6.1.3 Paragraph 28 of the NPPF requires planning policies to support economic growth in rural areas in order to create jobs and prosperity by taking a positive approach to sustainable new development. This includes supporting sustainable growth and expansion of all types of business and enterprise in rural areas and the promotion of the development and diversification of agricultural and other land-based rural

businesses.

- 6.1.4 Paragraph 55 of the NPPF sets out the circumstances in which it is necessary to provide new isolated dwellings in the countryside such as where there is an essential need for a rural worker to live permanently at or near their place of work in the countryside. This states that local planning authorities should avoid new isolated homes in the countryside unless there are special circumstances. e.g the essential need for a rural worker to live permanently at or near their place of work in the countryside. The main issue for consideration is therefore whether there is an essential need for a worker to be accommodated on the holding.
- 6.1.5 A functional test is therefore undertaken in order to ascertain whether it is essential for the proper functioning of the enterprise for the worker to be readily available at most times. The adopted SPD (Type and Affordability of Housing), para 3.2 states “time” being 24 hours a day, 7 days a week.
- 6.1.6 The consideration of the application should take into account whether the problems/emergencies are likely to occur during normal working hours (even if these hours are long). If this is the case, emergencies/problems can be dealt with as part of the day to day routine and this does not call for a worker to live on site.
- 6.1.7 Whilst PPS7 (Sustainable Development in the Rural Areas) has been superceded by the NPPF the following general principles and tests against which proposals for temporary agricultural dwellings are considered to generally still apply:
- (i) clear evidence of a firm intention and ability to develop the enterprise concerned (significant investment in new farm buildings is often a good indication of intentions);
 - (ii) functional need
 - (iii) clear evidence that the proposed enterprise has been planned on a sound financial basis;
 - (iv) the functional need could not be fulfilled by another existing dwelling on the unit, or any other existing accommodation in the area which is suitable and available for occupation by the workers concerned; and
 - (v) other normal planning requirements, e.g. on siting and access, are satisfied.
- 6.1.8 The application is also considered against the following policies of the Shropshire Core Strategy:
- 6.1.9 CS5: Countryside and Green Belt
CS6: Sustainable Design and Development Principles
CS7: Communications and Transport
CS11: Type and Affordability of Housing
CS17: Environmental Networks
CS18: Sustainable Water Management
- 6.1.10 Adopted Policy CS5 (Countryside and Green Belt) seeks to strictly control development in accordance with national planning policies protecting the countryside. This states that a dwelling may be permitted where the applicant has demonstrated a need that relates to agricultural, forestry or other essential

countryside workers and there are no unacceptable adverse environmental impacts.

- 6.1.11 The policy also generally allows for agricultural/horticultural/forestry/mineral related development along with other uses appropriate to a countryside location.
- 6.1.12 Policy CS6 seeks to create sustainable places and to ensure that development is designed to a high quality using sustainable design principles.
- 6.1.13 New development is also required to protect, restore, conserve and enhance the natural, built and historic environment and to be appropriate in scale, density, pattern and design taking into account local context and character. It is also required to contribute to the health and wellbeing of communities, including safeguarding residential and local amenity.
- 6.1.14 Policy CS7 seeks to achieve a sustainable pattern of development by improving accessibility, managing the need to travel, offering options for different travel needs and reducing the impacts of transport.
- 6.1.15 Policy CS11 relates to business case requirements where it is necessary to establish a functional need for a new rural dwelling.
- 6.1.16 Policy CS17 aims to ensure that development protects and enhances the diversity, high quality and local character of Shropshire's natural, built and historic environment, and does not adversely affect the visual, ecological, geological, heritage or recreational values and functions of these assets, their immediate surroundings or their connecting corridors;
- 6.1.17 Policy CS18 requires development to integrate measures for sustainable water management to reduce flood risk and avoid an adverse impact on water quality and quantity within Shropshire. All proposals are required to include appropriate sustainable drainage systems (SUDS) to manage surface water and aim to achieve a reduction in the existing runoff rate, and not result in an increase in runoff and incorporate water efficiency measures.

6.2 **Details of the Proposal**

- 6.2.1 The application proposes the introduction of a 10 box stable block and menage and seeks temporary three year consent for a temporary mobile home in connection with the proposed equestrian use.
- 6.2.2 The proposed mobile home is to be sited relatively close to the northern boundary of the site adjacent to an existing stretch of hedgerow. The proposed stable block is shown predominantly to the south west of this and to the west of that is the proposed ménage.
- 6.2.3 The proposed caravan is to be occupied by the applicant and her two children and is to include three bedrooms. Its dimensions are to be 40ft by 25ft with a proposed green finish.
- 6.2.4 The proposed stable block is to be of a U-shaped plan around a yard and is to incorporate a total of 10 stables and 2 tack rooms with access to the proposed

ménage provided by way of a central access through the building. The design incorporates a low shallow pitched roof and stable type doors interspersed with small single light windows. The building is to measure 184 square metres, with an eaves height of 2.6m and an overall height of 3.5m. Materials are to include block walls with a pitched grey felt roof (with one clear roof sheet per stable) over a concrete base and creasoted timber wall cladding.

6.2.5 The proposed menage is to measure 40m by 30m and is intended for the exercise, training and breaking of horses. This is to have a sand base and is to be enclosed by a 1.6m post and rail fence with a creosote finish. No lighting is proposed.

6.3 **Background to Proposal**

6.3.1 The applicant has provided additional information in support of the application as follows:

6.3.2 In the last five years the applicants' principle business has involved:

- 6.3.3
- Teaching people to ride horses
 - Clipping horses, rug repairs and breeding using between 2 and 6 mares of non-specific breeds.

6.3.4 The business is focussed on breeding and selling quality American Paint horses and coloured part-bred show ponies and breaking and schooling young horses for private clients.

6.3.5 The applicant currently owns 24 horses of varying ages including:

- Stallions and brood mares kept for breeding purposes.
- Younger horses being broken, schooled etc ready for sale.

6.3.6 It is explained that in terms of security high value horses will be kept at the stables and it is reported that over the last six months a number of criminal incidents have occurred including theft, damage to property and horses being tampered with. Incident/crime numbers have been provided with the supporting information.

6.3.7 The applicant's proposed use of the land and buildings is for;

- The breeding of American Paint horses.
- The breaking, schooling and producing of horses (preparation for competition ring or sale).
- Rehabilitation of mistreated horses and ponies.

6.3.8 It is explained that due to economic changes breeding of general horse breeds is returning a low level of profitability. The applicant is principally operating from rented premises on a short-term basis with no security of tenure and has decided to focus the business on the breeding of specialist breed horses (American Paint). She has two stallions and six brood mares from which she intends to breed.

6.3.9 Additional services/income streams include;

- teaching of horse riding which will reduce over time.
- clipping of horses

- repair of horse rugs

6.3.10 The applicant currently lives some six miles from the site by way of a number of lanes and ten to fifteen minutes drive from the application site by car and principally operates from rented premises, some 2.5 miles and five to ten minutes drive from the application site, which comprises of basic stables and grazing land.

It is stated that the application site was purchased with the intention of use as a breeding facility for the following reasons:

- A level area of grassland in a peaceful location where horses can be viewed with ease from the proposed stable area.
- A safe and adequate access for cars and horse trailers
- Potential for a secure and private location to offer the quiet operating area for a breeding enterprise.

6.3.11 However, it is claimed that the site is currently unsuitable for this use on account of the need for a tack room, ten stables and a feed room in order to operate efficiently and at a sufficient standard.

6.3.12 It is explained that the applicant is currently involved in feeding horses at three different locations with insufficient housing/stabling and that this is proving more time intensive than a purpose built facility.

6.3.13 This is stated to be detrimental to the welfare of the horses. The applicant's state that discipline is necessary to breed, break and school horses and that this is not achievable with the insufficient facilities currently at the application site and that permanent stabling is necessary for the tasks to be carried out in a normal manner. In addition, it is claimed that carefully laid out stables with drainage can allow appropriate working conditions during winter months and that the lack of undercover storage currently trigger messy ground conditions for the yard.

6.3.14 The proposed facilities will allow the breeding enterprise to be expanded in line with expectation. Between the months of November and March it is intended that the horses will typically be turned out to pasture for three hours per day subject to ground conditions.

6.3.15 It is explained that the applicants' son and daughter are often on hand to help and the intention is that the applicant's daughter will become more fully involved in the business.

6.3.16 The applicant has confirmed that there will be no teaching or clipping carried out from the proposal site to ensure a calm tranquil environment for breeding stock and to limit disease/virus contamination. However the intention is that clients will be taught on their own horses at their property or at an indoor school that is for hire. Clipping is a mobile service, which is done at the client's property on their horse. Rug repairs are a service that is also done from home.

6.3.17 It is proposed however that breaking and schooling would be offered as services at the application site. The applicant explains that these services are labour intensive requiring attention to be given to the subject horses on several occasions per day and that travelling between sites is not conducive to providing the necessary

attention to each horse.

- 6.3.18 The applicant has barns and grazing land some 2.5 miles away which is to be kept on for horses that do not require constant attention, as in mares in foal or horses with a medical condition or horses that require daily work. An additional 6 acres are rented as needed a mile and half away between Penley and Overton.
- 6.3.19 It has been suggested CCTV or monitors could assist. However the applicant contends that these would not help as in the event of an emergency, due to the distance involved this would involve delays in assessment and administration of treatment.
- 6.3.20 The applicant has provided details to the Local Planning Authority of a search for properties for sale looked at within a 5 mile radius of the surrounding area offering land together with permanent accommodation and has provided reasons as to why these are above the required price bracket, do not offer the level of accommodation required or the amount of land or necessary security arrangements.
- 6.3.21 It has been suggested the applicant should consider whether a small welfare residential unit would meet the functional requirements. However, it is claimed that this would not meet the needs of the business on account of the applicant needing to be on site 24 hours per day throughout the year due to the long foaling season and potential for problems.
- 6.3.22 The applicant wishes to undertake a small amount of full holiday livery when owners are away for a week at a time. Daily livery will not take place.

6.4 **Appraisal**

- 6.4.1 The Council instructed Reading Agricultural Consultants Ltd (RAC) to undertake a desktop appraisal of the application and this has been prepared with regard to the advice in the National Planning Policy Framework (NPPF) and the Shropshire Core Strategy Development Plan, adopted March 2011. This was undertaken in response to documents submitted with the application including a business appraisal, Design and Access Statement, Supplementary Planning Report, cash flow predictions and projected Profit and Loss Accounts.
- 6.4.2 As background it was explained that the applicant currently operates her equestrian business from three rented sites around Penley and lives some six miles away with the rented land and stables being held on short term leases.
- 6.4.3 'The applicant's equestrian business had previously been with teaching, clipping horses, rug repairs and breeding horses (non-specific breeds). The applicant is proposing to focus on an equine breeding programme using and importing American Paint horses. The business appraisal identifies a strong demand for this type of horse with very few blood lines in this country. The business appraisal further identifies providing a breaking and schooling facility for client's horses. Typically these horses will be on site for a six to eight week period. The applicant will also offer equine rehabilitation facilities.
- 6.4.4 The business appraisal notes the applicant had a total of 24 horse under her care (August 2014) but with a more typical average number of about 17 horses. The

supplementary planning report identifies the applicant owning two stallions and six brood mares with all six brood mares due to foal in 2015.

- 6.4.5 The labour for the enterprise is provided by the applicant and her family and the reports note the current difficulties experienced with having the horses spread over three different rented units and the applicant living some distance away from these sites.
- 6.4.6 It is understood that the applicant proposes to build a new block of 10 stables, tack room and feed store and a 40m x 30m outdoor menage and site a temporary mobile home at the application site, subject to obtaining planning permission.'
- 6.4.7 The appraisal explains that any assessment of essential need requires the following:
- An evaluation of risk;
 - The frequency and type of out-of-hours emergency situations arising;
 - The scale and loss should that emergency situation arise;
 - The potential for an on-site worker to identify the problem; and
 - His or her ability to rectify the problem.
- 6.4.8 The supplementary planning report makes express reference to welfare and health and the applicant's responsibility on site. Under the Animal Welfare Act 2006 it is an offence to cause unnecessary suffering to any animal. The Act also contains a Duty of Care which means that anyone responsible for an animal must take reasonable steps to ensure the animal's needs are met and its welfare assured. In this case the overall responsibility or 'duty of care' for animal welfare for the horses stabled or under the applicant's care lies with the applicant.
- 6.4.9 In 2002 the equine industry and welfare organisations produced guidelines for the welfare of all horses, ponies and donkeys (The Equine Industry Welfare Guidelines Compendium for Horse, Ponies and Donkeys produced by the National Equine Welfare Council) which was revised in 2005 and again in 2009 following the publication of the Animal Welfare Act 2006. This refers to the availability of staff and states that:
- 6.4.10 Sufficient staff must be provided at all times to ensure proper, regular and timely attention to all horses held'.
- 6.4.11 It is clear from the business and supplementary planning report that the applicant's equestrian business provides a range of services (not all though would require on-site attendance) and where the breeding, foaling of mares, and sale of her own horses and breaking and schooling of client's horses is expanding. These activities require a great deal of management expertise and attention to detail and the list of activities set out in the supplementary report itemised under 'Functional Need' is agreed with. These can be grouped under the following:
- The close supervision, management and daily requirements of horses (stallions and mares) either boxed in stables or in grass paddocks;
 - The routine exercise, schooling and training of individual horses;

- The close supervision of stallions and mares at covering; and specifically the brood mares at foaling;
- Close supervision of any horses undergoing a rehabilitation programme;
- The provision of security for horses and youngsters from theft or malicious attack;
- Dealing with unforeseen emergencies.

6.4.12 It is agreed that horses need to be inspected frequently for signs of illness, distress or injury, and equestrian establishments have a duty of care to ensure the rapid diagnosis and treatment of injury, disease or infestation. The applicant has identified a number of recent incidents where prompt action has been required but speed of response was delayed due to living away from the site.

6.4.13 It is agreed that unforeseen incidents can cover a wide range of situations as described by the applicant, from dealing with emergencies such as a horse cast in its box or a horse with colic, to damage to the stables and associated buildings from the horses, severe weather conditions or fire.

6.4.14 The new stables will provide the necessary accommodation for brood mares and stallions, storage of tack and feed. The menage will allow an exercise, training and schooling area for horses.

6.4.15 Overall it is agreed that there is an essential need for a resident worker to live on site to ensure the welfare and security of the horses is not compromised and the applicant's business can develop and expand as identified in the business appraisal.'

6.5 **Financial Sustainability**

6.5.1 Reading Agricultural report that 'any sustainable rural enterprise such as the applicant's equestrian enterprise will need to utilise its resources in such a way so as to function properly. In general, any business has to have sufficient funds available to fund its day-to-day trading (cash flow) and be sufficiently profitable in order to reinvest with the business or show a reasonable return on invested capital.

6.5.2 No business can be economically viable if over the medium to long term its expenditure exceeds income; and these three aspects are essential to sound business planning.

6.5.3 The applicant has provided cash flow forecasts for the expanding business and projected profit and loss accounts. These are considered to be commercially sensitive and details are not intended for the public domain.

6.5.4 The standard accepted test for any rural worker's dwelling is that the business generates sufficient profits to provide an adequate return to land, labour and capital and be able to finance the build-cost of the dwelling, or in this case the purchase of a mobile home. The cash flow identifies private drawings well in excess of the minimum wage which is approximately £13,000. The sum identified in the cash flow would also be sufficient to provide for the additional family labour.

6.5.5 Reading Agricultural calculate a return to land equivalent to £730 (4.85ha x £150/ha) with a reasonable return on investment plus the forecast cost of the

stables, menage and mobile home to be about £3,500. These (with the labour charge of £13,000) total in excess of £17,000, but can be met from the projected profit and loss.

6.5.6 Overall it is considered that the business accords with paragraph 28 of the NPPF in that there is a reasonable prospect that the business will become a sustainable new enterprise.’

6.5.7 It is also considered that the proposed siting of the dwelling would meet the essential needs of the unit.

6.5.8 Reading Agricultural have therefore concluded that the application meets the requirements of the NPPF and local plan policies for the change of use from agricultural to equestrian, construction of a new stable block, menage and temporary siting of a mobile home.

6.5.9 In view of the findings of Reading Agricultural officers consider it would be difficult to sustain an objection to the mobile home element of the proposals.

6.6 **Visual impact and landscaping**

6.6.1 Part of the northern boundary to the site (at its eastern end) is formed by established hedging. Additional hedgerow planting is proposed along the eastern and southern site boundaries with some gaps in the existing hedge proposed to be re-planted with native hedge species along the eastern boundary.

6.6.2 Existing trees along the eastern boundary of the site connect with an existing hedge line between the site and Brook Mill to the east.

6.6.3 It is considered that the visual impact of the proposed caravan to the wider landscape setting would be relatively minor given its scale and location adjacent to the existing hedgerow.

6.6.4 In terms of the proposed stable block it is considered that the building is of a type, function and scale which would not appear out of place within a countryside setting.

6.7 **Drainage**

6.7.1 The Council’s Drainage Engineer has been consulted on the application and requested the submission of drainage details, plan and calculations.

6.7.2 The site is located within Flood Zone 3, 2 and 1as identified by the Environment Agency and a Flood Risk Assessment Statement was required to be carried out and submitted.

6.7.3 Paragraph 100 of the NPPF requires local planning authorities to direct development away from areas of land that are as highest risk. The NPPF aims to protect people and property from flooding and in paragraph 100 it states that “Local Plans should apply a sequential, risk-based approach to the location of development to avoid where possible flood risk to people and property and manage any residual risk, taking account of the impacts of climate change”. This is typically done by applying the sequential test. This approach is designed to ensure that areas at little or no risk of flooding are developed in preference to areas that have a

higher risk and it is a matter for the Local Planning Authority to decide whether the scheme triggers the need to apply the sequential test.

The proposed development still retains a safe access even during a flood event. Part of the site does fall within flood zone 3 and 2 and the caravan has been located so that part of the caravan is in flood zone 2 and 1. The design has avoided placing the caravan at risk from flooding and that the existing accesses would ensure that there is always a safe route of access and egress.

The following comments have been received from the Council's Drainage Engineer in response to information received.

- 6.7.4 The development is within an area of pluvial and fluvial flooding therefore it is to be expected that some flooding will occur. The development is classed as Less Vulnerable according to Table 3 of the NPPF, which is acceptable for Flood Zones 2 and 3. A small volume of flood compensation was requested to take account of the loss of flood plain as a result of the stable block construction. This has been provided by the agent. The ménage is to be constructed of a free draining all weather material, which will be better suited to wet ground than the present situation. As such taking a risk based approach it is considered that the site would avoid any flood risk to people and property and as such there is no requirement to apply the sequential test. The scheme of providing flood storage mitigation ensures that the proposal would not exacerbate any flooding problem or move flooding elsewhere.
- 6.7.5 The compensation volume proposal and FRA are deemed to be satisfactory. However details have not yet been received of the surface water drainage system and details of the septic tank and drainage field calculations. These details could be conditioned if planning permission is to be granted.
- 6.7.6 Concerns have been raised locally regarding the waterlogged condition of the site and its implications in terms of animal welfare. This is noted within the area of the proposal site although it is also noted that this represents a relatively small area of the overall grazing land under the ownership of the applicant and that the proposed ménage, at a scale of 30m by 40m, would provide a large all weather surface suitable for exercising horses.
- 6.8 **Highways**
- 6.8.1 Vehicular access is provided at the north east corner of the site off a minor country lane which links Penley to the north to the small settlement of Hampton Wood to the south.
- 6.8.2 The applicant is currently travelling to the site from land rented elsewhere and a number of horses are already grazing the site.
- 6.8.3 The applicant has advised that there will be no regular daily traffic coming to the site and that anticipated traffic movements are to consist of the following:
- The applicant driving with a car in and out once per day
 - The applicant's son in and out once per day to work

- On average 2 clients a week coming in and out once

6.8.4 Vehicles will principally be cars but there will be some horse trailers. Generally horses delivered to the site for breaking will be there for 6-8 weeks at a time. The normal day to day operation will not trigger the need for lorries/large vehicles to attend the site on a daily basis. It has been brought to officers attention that some deliveries to site have been made with large curtain sided lorries which have had to cause to park in the lane whilst unloading. The agent on behalf of the applicant has advised that the proposed site will have a parking area allowing delivery vehicles to park within the site. Hay will be delivered by a landrover and trailer. The applicant has not laid out a parking area whilst the application is still being considered. It is considered that a planning condition can be imposed requiring the submission of parking/turning areas within the site to allow for vehicles to be loaded and unloaded. The size of vehicles attending the site is not a matter that can be reasonably controlled by the council however the lane currently serves a Maarquee Business, storage facility and farm enterprise. This level of traffic generation is considered to be low and access to and from the site would not cause significant harm to users of the lane over and above the existing uses in the locality.

6.8.5 It is stated that there are no plans for a riding school or for clipping to be carried out from the proposal site. The reason given for this is that this is to ensure a calm tranquil environment for breeding stock and to limit disease/virus contamination.

6.8.6 A small amount of full holiday liveries is proposed as part of the business for when owners are away for a week at a time and it is confirmed that daily livery will not take place.

6.8.7 Therefore it is suggested that equine related vehicle movements will be at relatively low levels and that there will not be high levels of movements as might be associated with other equine enterprises such as a riding school.

6.9 Ecology

6.9.1 The Council's Ecology officer was consulted on the application. It was noted that there are existing ponds and watercourses within the vicinity of the site and comments were received requesting that survey work be carried out. A Habitat Assessment & Protected Species Survey was subsequently carried out by Churton Ecology in September 2014.

6.9.2 An assessment of all pools for Great Crested Newt within a 250m radius of the site was undertaken, to include 3 pools at distances of 65m, 200m and 180m, using the Habitat Suitability Index.

6.9.3 The report concluded that only one pond is considered to have potential to support breeding Great Crested Newts. It was considered that the distance between the development site and the pond and the lack of connectivity for newt dispersal entails that the development is unlikely to cause an offence to Great Crested Newts and no further survey work was recommended.

6.9.4 The survey found no evidence of any other protected species on the site although it was deemed to have potential to support foraging and commuting bats and to support nesting birds.

- 6.9.5 In view of the above conclusions conditions and informatives have been recommended relating to landscape, Great Crested Newts bats and birds.
- 6.9.6 The report notes that the ditch bordering the northern boundary of the site has a local priority species *Berula erecta* – Lesser Water-parsnip and Churton Ecology considers the ditch has a role to play in the drainage of the site and surrounds and may need future management to retain its function.
- 6.9.7 Churton Ecology has made recommendations as to how to enhance and protect the sites biodiversity.
- 6.9.8 This involves avoiding development within close proximity to the northern boundary ditch, keeping this area open maintained as grazed open habitat by:
- the constitution of grazing without trampling through use of a post and wire fence as existing;
 - the avoidance of overshadowing by buildings. Churton Ecology specifically recommends that no additional hedge planting is planted next to the ditches or streams. The current site plan shows the development to be close to the northern boundary ditch and indicates hedge planting.
- 6.9.9 SC Ecology would expect the findings from the ecological survey report to be taken into consideration during the site layout and landscape plan. SC Ecology recommends that a distance of at least a 5m buffer from the ditch to the proposed development is maintained. There should be no additional hedge planting along this section, and the area should be left grazed as per Churton Ecology's recommendations. It is therefore recommended that any planning approval includes a condition requiring the submission of a Habitat Protection Plan and a Wildlife Protection Plan.
- 6.9.10 The application has been screened by way of the Habitat Regulation Assessment process and no potential effect pathways have been identified by which the application could impact upon features of designated sites.

7.0 CONCLUSION

- 7.1 On balance the proposed equestrian use is deemed to be appropriate within its countryside location and it is considered that it is essential to the proper functioning of the rural enterprise for a worker to live on site as verified by the report undertaken by Reading Agricultural. The proposal is therefore deemed to comply with the relevant policies CS5, CS6, CS7, CS11, CS17 and CS18 of the adopted Core Strategy, the adopted SPD (Type and Affordability of Housing) and the NPPF and is recommended for approval.

8.0 Risk Assessment and Opportunities Appraisal

8.1 Risk Management

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

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

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

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

8.2 Human Rights

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

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

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

8.3 Equalities

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

9.0 Financial Implications

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

10. Background

Relevant Planning Policies

Central Government Guidance:

West Midlands Regional Spatial Strategy Policies:

Core Strategy and Saved Policies:

RELEVANT PLANNING HISTORY:

13/00668/AGR Open plan barn with double pitched roof, clad with profiled steel sheeting colour green, with timber vertical cladding also coloured green Field shelter also double pitched roof, felted with horizontal feather edged boarding also coloured green, and on skids. PPREQN 20th March 2013

11. Additional Information

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

Cabinet Member (Portfolio Holder)

Cllr M. Price

Local Member

Cllr Brian Williams

Appendices

APPENDIX 1 - Conditions

APPENDIX 2 – REASONS FOR NEED TO BE ON SITE..

APPENDIX 1

Conditions

STANDARD CONDITION(S)

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

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

2. The development shall be carried out strictly in accordance with the deposited plans and drawings as amended by the revised plan Numbers 9063-02A; 9063-03; 9063-04A; received on the 4th December 2014 and the site plan received on the 4th November 2014.

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

3. The caravan hereby permitted shall only be occupied by the by Mrs Michelle Kelsey and their resident dependants, and shall be for a limited period being the period of 3 years from the date of this decision, or the period during which the caravan are occupied by them, whichever is the shorter.

Reason : To enable the Local Planning Authority to give further consideration to the caravans retention at the expiration of this permission having regard to the circumstances existing at that time.

4. When the caravan ceases to be occupied those named in condition 3 above, or at the end of 3 years, whichever shall first occur, the use of the caravan shall cease and all caravans, and equipment brought on to the land, or works undertaken to it in connection with the use shall be removed and the land restored to its condition before the development took place.

Reason: To enable the Local Planning Authority to give further consideration to the caravans retention at the expiration of this permission having regard to the circumstances existing at that time.

CONDITION(S) THAT REQUIRE APPROVAL BEFORE THE DEVELOPMENT COMMENCES

5. No caravan shall be sited or operational development commenced on site until a scheme of proposed surface and foul water drainage has been submitted to, and approved by the Local Planning Authority. The approved scheme shall be fully implemented before the caravan is occupied and or stables brought into use (which ever is the sooner).

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

6. No operational development shall be commenced or caravan sited on the land until a Wildlife Protection (mitigation) plan has been submitted to and approved in writing by the local planning authority. The plan shall include:

a. An appropriately scaled and detailed plan showing 'Wildlife/habitat Protection Zone' where construction activities are restricted and where protective measures will be installed or implemented (i.e. buffer of 5m from the northern ditch to the proposed development, buffer area to be fenced using permeable fencing during development to restrict machinery and protect the ditch).

All construction activities shall be implemented in accordance with the approved details.

Reason: To protect features of recognised nature conservation importance.

7. No operational development or siting of any caravan approved by this permission shall commence until details of existing and proposed finished floor levels for the mobile home and stables have been submitted to and approved by the local planning authority.

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

8. Notwithstanding the details shown on the approved plans, within three months of the date of this decision no operational development shall be commenced or caravans sited until full details of landscape works have been submitted to and approved in writing by the local planning authority. The landscape works shall be carried out in full compliance with the approved plan, schedule and timescales. Any trees or plants that, within a period of five years after planting, are removed, die or become, in the opinion of the Local Planning Authority, seriously damaged or defective, shall upon written notification from the local planning authority be replaced with others of species, size and number as originally approved, by the end of the first available planting season.

Reason: To ensure the provision, establishment and maintenance of a reasonable standard of landscape in accordance with the approved designs and to protect the amenity and wildlife interest of the site.

9. Within 3 months of the date of this decision details relating to the storage and handling of manure and other waste shall be submitted to the Local Planning Authority for approval in writing prior to work commencing on site. The approved scheme shall be fully implemented in accordance with the approved details and maintained thereafter.

Reason: To safeguard the amenity of the locality.

10. Within 3 months of the date of this decision details for the parking, turning, loading and unloading of vehicles shall be submitted to and approved in writing by the Local Planning. The approved scheme shall be laid out and surfaced prior to the first occupation of the caravan or completion of the Stables (which ever is the sooner) and thereafter only be used at all times for those purposes. All vehicles shall be loaded and unloaded within the site. Only commercial vehicles under the ownership of the applicant shall be permanently parked on the site

Reason: To provide for the parking loading and unloading of vehicles off the highway in the interest of highway safety.

11. Within 3 months of the date of this decision notice a habitat management plan shall be submitted to and approved by the local planning authority. The plan shall include:

- a) Description of the features to be managed;
- b) Aims and objectives of management;
- c) Appropriate management options for achieving aims and objectives;
- d) Personnel responsible for implementation of the plan;

The approved management scheme shall be fully implemented and maintained for the lifetime of the development.

Reason: To protect features of recognised nature conservation importance.

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

12. Prior to the erection of any external lighting on the site a lighting plan shall be submitted to and approved in writing by the local planning authority. The development shall be carried out in accordance with the approved details and thereafter retained for the lifetime of the development. The submitted scheme shall be designed to take into account the advice on lighting set out in the Bat Conservation Trust booklet Bats and Lighting in the UK

Reason: To minimise disturbance to bats, a European Protected Species

13. Within 6 months of completion of the development hereby approved all mobile shelters, structures and other paraphernalia not approved under this consent shall be removed from the site.

Reasons: To protect the amenity of the site.

14. No mobile field shelters, other shelters or structures shall be stationed on the site above.

Reason: To safeguard the amenities of the site.

15. The riding arena hereby approved shall not be used for purposes of commercial training, riding or instruction of horses and shall only be used for horses in the ownership / care of Mrs Michelle Kelsey.

Reason: To safeguard the amenities of the locality

APPENDIX 2

REASONS FOR NEED TO BE ON SITE.

1. Welfare and correct management of horses at all times
2. Welfare of broodmares and care of foals, while awaiting birth and once foaled.
3. Welfare and health and to reduce risks to broodmares imported in foal - mares that have travelled extremely long journeys from the USA, run the risk of travel sickness, colic, abortion, exhaustion, dehydration, severe stress and anxiety, all conditions which need constant and close supervision, correct care and attention and instant veterinary assistance to ensure the horse is returned to good health and a successful healthy pregnancy.
4. Stallions need careful management and correct daily handling and supervision, a stallion that is left not handled daily can become unruly, feral and dangerous, they need a consistent management, secure safe tranquil environment.
5. Foals are normally born January - September however they are still possible to be born right through to December. Imported mares foal in our winter months, of which would have been their summer in country of origin.
6. Foals that are born in winter months cannot be foaled outside and need to be stabled, due to the severe weather this country.
7. A mare can be either early or late on her due date and normally give very few signs that foaling is due to happen and the actual event takes minutes, it is well advised to supervise and regularly check a mare due to foal throughout the day and night half hourly checks are recommended, for a period of two months either way of the due date.
8. Complications: mares due to foal can experience numerous complications, the foal stuck, breech, maiden mares foaling are often very panicked by foaling and the foal can be trampled, kicked, rejected or not allowed to suckle.
9. Mares should not foal in groups and need quiet isolation to feel safe to foal; other horses can attack or steal the foal.
10. Foals can be born with numerous problems. The applicant encountered on 12 May, joint ill, due to being born outside in wet conditions and not having stables to come into. Joint ill is very serious in a new born and must be treated immediately, under veterinary advice. Joint ill is when damp wet conditions get into the new born foals umbilical cord causing swelling of the joints, which then leads to septicaemia and death.
11. Foals and mares are prone to colic, this is spasms and cramps of the intestine, not allowing food to be digested or waste passed, colic is a common problem in horses and once again cannot be left untreated, as even with an emergency operation can lead to death.
12. Horses who are recovering from colic still need round the clock supervision, as colic may return. Horses with colic often need several helpers, as colic horses need to be kept walking, as rolling on the ground can twist the gut.
The applicant has had a couple of colic's in the last 6 months, which resulted in her daughter and her walking the horses for hours and then supervising its recovery for 24 hours and gradually reintroducing forage, until the horse is back to good health.
13. Rescue horses that have been starved have to be fed little and often day and night, so not to shock their digestive system into colic, until they are once again used to a correct feeding program.
14. Other problems that need immediate veterinary care are abdominal hernias in foals and young stock, which then require an operation and 48 hour supervision after operation.
15. Gelding of colt foals have to be closely monitored, for the first week as they may rupture, get an infection or severe swelling or a bleed which leads to death.
16. Foals with contracted tendons at birth need to be identified and operated on within hours of birth.

17. Travel sickness, horses that have under gone long journeys or been transported from Ireland or further afield, can often arrive exhausted and dehydrated, which leaves them open to travel sickness, which can start with a colic, high temperature and a severe flu like illness.

18. Equine flu is extremely dangerous to the horse and if left untreated can lead to death, as a horse does not have the ability to shake off flu, like humans, flu in a horse can lead to pneumonia breathing difficulties and death.

19. Stallions have to be supervised continuously, as if they get loose with other horses, especially geldings or other stallions or colts, their natural behaviour is to drive others males away from the herd, this is by way of chasing and fighting, which is horrific as other males get severely attacked.

20. Horses can contract viruses like equine flu or strangles that need infected horses to be isolated and nursed 24 hours a day, often for a period of 6- 7 weeks, the person nursing the infected horses needs to shower and change clothes before going near any horses that are not affected by the virus to reduce the chance of it spreading.

21. A few of the problems encountered over the last 6 months, with the horses, all of which without correct nursing and veterinary attention could have led to the animals being destroyed;

- Suspected fractured jaw and two smashed teeth
- joint ill
- Spasmodic colic
- Colic of a competition pony, on return from show.
- Gelding
- Back problems requiring an equine back manipulator therapist
- Abdominal hernia in a youngster
- Horse cast with legs in gate
- Horse caught with its back leg stuck in another horses rug straps after they had a kicking argument.
- Horse cast in stock fence
- Leg injury
- Choke, this is where a horse rushes its food and food becomes logged in its wind pipe, needing immediate veterinary assistance, to allow the horse to breathe again.
- Punctured sole (foot abscess)
- General cuts and grazes
- Horse tangled in fence needing wire cutters and several people to get it free, as horse thrashing on floor to try and free itself.

-

This page is intentionally left blank



Committee and Date
 North Planning Committee
 17 February 2015

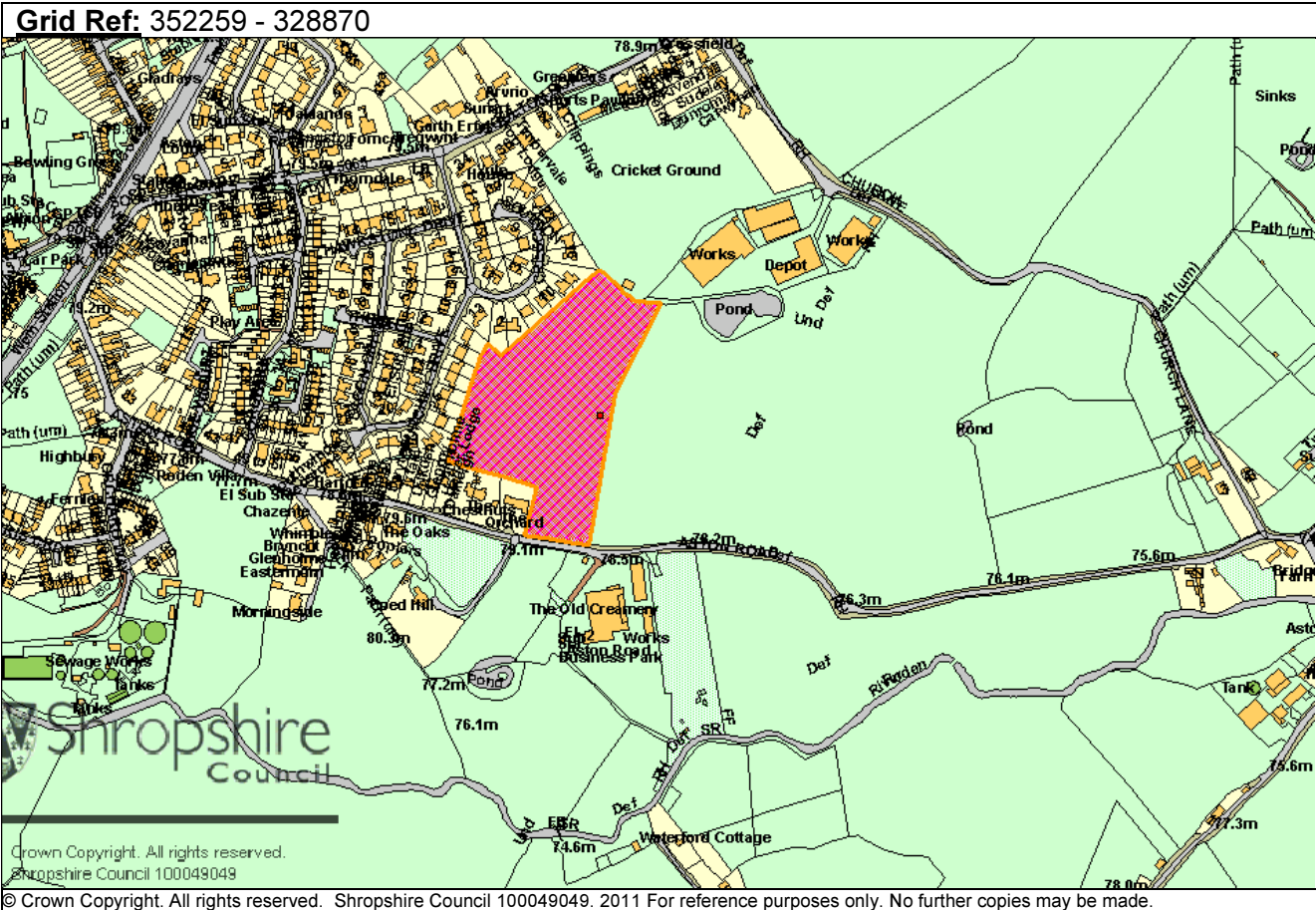
Item
10
 Public

Development Management Report

Responsible Officer: Tim Rogers
 Email: tim.rogers@shropshire.gov.uk Tel: 01743 258773 Fax: 01743 252619

Summary of Application

Application Number: 14/03428/OUT	Parish:	Wem Urban
Proposal: Outline application for the erection of 50 No dwellings (to include access)		
Site Address: Proposed Residential Development Land Between Aston Road And Church Lane Wem Shropshire		
Applicant: Mr K,J&P Broomhall & Mrs H Beasley		
Case Officer: Karen Townend		email: planningdmne@shropshire.gov.uk



Recommendation:- Grant Permission subject to the applicants entering into a S106 agreement to secure affordable housing and a financial contribution towards investigating and implementation of changes to the traffic management in the area of the railway crossing and subject to the conditions set out in Appendix 1.

REPORT

1.0 THE PROPOSAL

1.1 This application seeks outline planning permission for residential development on 2.67 hectares of agricultural land on the eastern edge of Wem. The application was originally submitted for 75 dwellings on 4.7 hectares of land between Church Lane and Aston Road with a vehicular access off Church Lane. During the consideration of the application the scheme has been reduced and now proposes 50 dwellings off Aston Road, deleting part of the proposed development and the access off Church Lane. Access is the only matter which is for consideration at this outline stage of the application with all other matters of layout, scale, appearance and landscaping reserved for later approval. An indicative layout has been submitted and amended which shows how the site could be developed.

1.2 In support of the proposal the application has been submitted with a planning statement, indicative layout, highways and drainage report and ecology survey.

2.0 SITE LOCATION/DESCRIPTION

2.1 Wem is located approximately 10 miles south of Whitchurch and approximately 9 miles north of Shrewsbury. The market town of Wem is a clustered development that has developed on both sides of the B5063 and the railway line. The market town has a retail high street and a good range of services and facilities.

2.2 The development site is located on the eastern side of Wem and comprises a parcel of land currently set to grass, surrounded by mature trees and hedgerows on the northern and southern boundaries. The site is relatively flat with a low, wet area. The site meets the residential curtilages of existing properties to the south and west boundaries, a business/industrial park to the north and a field to the east.

2.3 Church Lane is a country lane off the B5065 with a small number of houses close to the junction which narrows beyond the housing and with passing places, it serves as access to the Wem Engineering Centre and also leads from this end of Wem to the small village of Aston. Aston Road at the point of the proposed development is also beginning to narrow, prior to this, from the town, the road is two vehicles wide with residential development on both sides, albeit sporadic on the south side. Aston Road also serves as access to Aston Road Business Park and on to the village of Aston where the two roads meet. The application site is outside the 30mph speed limit.

3.0 REASON FOR COMMITTEE DETERMINATION OF APPLICATION

3.1 Wem Town Council have submitted comments which are contrary to the officer recommendation and both local members, Councillor Chris Mellings and Councillor Pauline Dee, have both confirmed that they consider that the matters raised by the Town Council are material considerations which should be debated by the North Planning Committee.

- 3.2 This request has been discussed by Principal Officers with the Chair and the Vice Chair of the Planning Committee and it was concluded that the application should be a committee decision given the issues raised by the Town Council.

4.0 COMMUNITY REPRESENTATIONS

4.1 Consultee Comments

- 4.1.1 **Wem Town Council** – Wem Town Council has resolved to strongly object to this application and to the amendments (re letter dated 5 December 2014) for the reasons given for the original application.

This proposed development is not considered sustainable in any aspect. The Town Council has consistently objected to any development to the east of the level crossing because of the existing traffic congestion at the crossing and the issue of standing traffic impacting upon traffic flows in the town centre. Also neither Church Lane or Aston Road have the capacity to cope with the additional traffic such a development will generate.

The Town Council has very serious concerns about the capacity of the town to cope with any additional development. Apart from the issues generated at the level crossing by the lengthy delays the road network in the town centre is seriously substandard. Also the local schools and medical centre are struggling to cope with the existing demands placed upon them without the impact of further development.

Reference should be made to the DCLG Select Committee Report entitled Operation of the National Policy Planning Framework - Communities and Local Government Committee which states

'We recommend that the Government issue guidance reminding local authorities and the Planning Inspectorate of the importance of timely infrastructure provision to delivering sustainable development. In setting out the reasons for approving development, decision-makers should fully explain the consideration they have given to its impact on infrastructure and explain how and where they expect the infrastructure to be provided and to what timetable'.

It is hoped these views will be taken into account when this application is considered.

- 4.1.2 **Wem Rural Parish Council** – At the meeting of Wem Rural Parish Council held on 6 January 2015 amendments to the application were considered. As in the meeting of 4 September 2014 when the application was first reviewed, the Parish Council acknowledged that although the amended proposal is within Wem Town Council's boundary, it could still bring an overriding detrimental impact on the wellbeing of residents and local infrastructure of Wem Rural Parish. On this basis it was agreed to review and comment on the amended application. The Council noted that although the number of dwellings had been reduced and access onto Church Lane had been removed, the concerns regarding the use of the designated Quiet Lanes of Aston and Barkers Green had not been addressed. In fact, with the removal of the access onto Church Lane, the possibility of traffic using Aston and Barkers Green to avoid going through Wem Town is increased. The Parish Council concluded the comments made in its response of 8 September

2014 regarding Quiet Lanes and the overriding detrimental impact on the wellbeing of residents and local infrastructure of Wem Rural Parish were still valid. The Parish Council resolved to continue to object to the application.

4.1.3 **Network Rail** – Following submission of mitigation proposals removed their original objection. Confirmed that this also applies to the amended plans.

A meeting was held between Network Rail's Level Crossing Manager and Amy Henson (Agent of the applicant) to discuss the comments raised previously, the details received in an email from Amy Henson are listed below which commits the developer to certain mitigation to overcome Network Rail's objection:-
"You confirmed that the signals and sensors at the crossing, plus the signage (and VAS signs) and markings on the road were updated only 13 months ago in October 2013 and are therefore satisfactory for the purpose of highway safety and do not need upgrading. You suggested that additional signage would be beneficial to the proposed development at the end of Church Lane where it meets Soulton Road, in order to remind drivers of potential delays at the crossing and that a narrower access out onto Aston Road would help to encourage vehicles to use Church Lane as a priority route. We intend to do both things and will narrow the route out onto Aston Road, by providing a pedestrian footpath along only one side of the carriageway rather than both sides as is currently shown.

You also suggested that we install road markings outside the plantation on Soulton Road in the form of a hatched area to keep it clear for emergency vehicles to enter and exit the site as this was something that was raised at the Town Council meeting and can be impacted upon when traffic is waiting when the barriers are down at the crossing. As a goodwill gesture we would be happy to make a contribution towards the upkeep of the markings as I have recently learnt that some have been installed.

The road markings around the level crossing have faded a lot over the past year, and as such we would like to contribute towards having them repainted for the benefit of the whole community.

The erection of a footbridge was not deemed to be suitable at this stage due to concerns regarding land ownership around the level crossing and whether sufficient land is available to provide a DDA compliant pedestrian bridge. The conclusion of our meeting was that Network Rail would not raise any objections to the proposed development and its impact upon the level crossing on the condition that we undertake to provide the additional signage at the end of Church Lane and a contribution towards the maintenance of the road markings in and around the crossing.

Given all of the above could you please confirm that the mitigation proposed overcomes the comments previously made and that you remove your holding objection against the development?"

Provided the above commitments are included by the LPA as suitably worded planning conditions in any planning approval, then Network Rail will formally withdraw the holding objection.

We would also suggest should this application go ahead a percentage contribution may be needed to fund a footbridge at Wem station from this and future applications through S.106. It is noted that the responsibility is not solely down to this 75 dwelling development and we would be seeking further percentage contributions from other developers who have planning applications to develop further on the up side of the railway at Wem.

4.1.4 **SC Learning and Skills** – Shropshire Council Learning and Skills report that the local primary school is at capacity and is forecast to remain that way for the foreseeable future. It is therefore essential that developers of any new housing in the town contribute towards the consequential cost of any additional places/facilities considered necessary at the school.

4.1.5 **SC Affordable Housing: 7th August 2014**

If this site is deemed suitable for residential development, the scheme would be required to contribute towards affordable housing in accordance with Policy CS11 of the adopted Core Strategy. The level of contribution would need to accord with the requirements of the SPD Type and Affordability of Housing and at the prevailing housing target rate at the time of a full application or a Reserved Matters application.

The current prevailing target rate for affordable housing came into force on the 1st September 2013 and in this area is 10%. The assumed tenure split of the affordable homes would be 70% for affordable rent and 30% for low cost home ownership and would be transferred to a housing association for allocation from the housing waiting list in accordance with the Councils prevailing Allocation Policy and Scheme. The size, type and tenure of the affordable homes will need to be agreed with the Housing Enabling Team before any further application is submitted.

4.1.6 **SC Conservation** – It is considered unnecessary be commenting in full in this case, however:

- The design of any proposed dwellings should reflect the local vernacular detail in terms of scale, details, materials and layout.
- Developments of this type have the potential to have an adverse impact on the landscape character of the area. However, this is not something which the Historic Environment Team can advise on. We would therefore recommend that Development Management consider obtaining the opinion of an appropriately qualified Landscape professional.

4.1.7 **SC Archaeology** – The proposed development site comprises a 4.2ha area of agricultural land on the western edge of Wem, in northern Shropshire. Whilst the Shropshire Historic Environment Record does not currently contain any records relating to any archaeological sites or features within the proposed development site boundary, it is understood that metal detectorists have found a number of pieces of medieval and post-medieval metalwork within the immediate vicinity. This suggests that the proposed development site therefore has some archaeological potential.

Given the above, and in accordance with Paragraph 128 of the NPPF, it is recommended that an archaeological Desk Based Assessment should be

provided by the applicant prior to the planning application being determined. This will enable an informed planning decision to be made regarding the need for any further archaeological mitigation. There should be no determination of the application until the Desk Based Assessment has been submitted.

4.1.8 **SC Public Protection – Specialist:** 14th August 2014

Having considered the proposed development it is noted that there is the potential for noise from a works to the north east of the development and works to the south on the opposite side of Aston road. It is noted that there is a stand off distance between the works to the north east and the proposed residential dwellings. However, in order to ensure that future residents of the proposed dwellings are not affected by noise I recommend that a noise assessment is carried out and submitted for approval. Any noise assessment should establish if noise levels in residential garden areas is likely to exceed 55dB and where it is predicted noise may be over 50dB mitigation should be proposed. If mitigation is not proposed and external residential areas are likely to have noise levels above 55dB I would recommend refusal of the application until an appropriate layout is considered. Any noise assessment should also ensure that the internally proposed residential properties will not be exposed to noise levels greater than 40dB and bedrooms at night no more than 30dB. It is advised that internal noise levels are no more than 30dB in any room in order to meet the good level stated in BS8233.

4.1.9 **SC Highways** – The highway authority raise no objection to the principle of outline consent being granted subject Section 106 funding towards investigating potential changes to the traffic management of the Level Crossing and implementing those changes.

Initially the development scheme sought to promote 75 dwellings with the principle vehicular access onto Aston Road and a secondary access onto Church Lane. A traffic appraisal was submitted in support of the application as part of a Highways & Drainage Report. The application however has since been amended and seeks 50 dwellings with sole means of access via Aston Road. It is somewhat disappointing therefore that the traffic appraisal was not updated since the rationale behind the linkage to Church Lane was to reduce potential traffic routing to and from the Aston Road/Soulton Road junction when gravitating to and from the A49 or east/northeast direction. In addition no recognition in the traffic appraisal was given to the potential usage of Cordwell Park as part of the initial scheme as a potential 'rat run' since linkage to Church Lane would have provided that link to Soulton Road to then travel to and from the east/northeast direction. The removal of the Church Lane link would however make the 'rat running' of vehicles' from the development through Cordwell Park to be attractive.

In principle the point of access shown to serve the site onto Aston Road is acceptable together with a need to provide a pedestrian facility along Aston Road to link into the existing footway infrastructure. The fundamental issue therefore is the impact of the traffic likely to be generated by the development on the local highway network and how that traffic would be likely to gravitate to the potential routes available to and from the site. In this regard there are constraints and deficiencies in all the routes namely:-

Aston Road/Soulton Road junction adjacent to the Level Crossing (traffic leading

to and from the town centre)
Cordwell Park (leading to Soulton Road and linking to the A49)
Barkers Green (leading out to the Shawbury Road to access the A49)
Aston Road leading to Church Lane to route to Soulton Road and linking to the A49).

Of those 4 routes identified above, the least attractive is the Aston Road leading to Church Lane.

The issues surrounding the Aston Road/Soulton Road junction is well-known as is the traffic management of the Level Crossing. As you will be aware the highway authority have been carrying out traffic surveys around Wem, including those associated with the traffic movements on the approaches to the Level Crossing. This is an issue which has been raised strongly by local residents and the Town Council, who object to further development taking place to the east of the Level Crossing. Network Rail initially raised a holding objection based upon the impact of additional traffic on the Level Crossing, but have since lifted this on the basis of some limited maintenance improvements being promoted in relation to this application scheme together with potential funding towards a footbridge crossing.

In relation to the issues surrounding the increase in traffic movements at the Level Crossing as a result of this particular application the highway authority consider that an objection would be difficult to sustain although clearly this particular development will have the effect of increasing the right turn movement into Aston Road from the town centre direction. Having discussed the traffic issues of the Level Crossing with Network Rail, one of the principle concerns relates to the right turning traffic movements into Aston Road and Station Road. These right turning traffic movements cause issues when the barriers are up when the traffic is in free flowing conditions. The issue however is likely to be compounded further when the barriers have been down and queuing traffic has built up on both main approaches and particularly when drivers within that queue are then released with the barriers then going up, either from Soulton Road or Aston Street, then wishing to make a right turn into Station Road or Aston Road. It is clear therefore that the greater increase in traffic movements as a result of new development have an impact upon the operation of the highway layout associated with the Level Crossing. The issue therefore is to what severity that impact is given the background traffic movements already on the local highway network.

The issues surrounding the Level Crossing are not new ones and attempts have been made to improve its operation but the constraints place limitation on what can be achieved. The highway authority consider however that there is merit in reassessing the current traffic flow arrangements and considering changing of priorities to address the right turn problems. This is however a matter that would need to be taken up with the Town Council and local consultation to assess the potential merits in a scheme coming forward and implementations costs. It is considered that a financial contribution should be sought through a Section 106 towards the assessment and potential implementation of changes to the traffic management associated with the Level Crossing.

The highway authority question potential contribution towards a footbridge

crossing, as has been put forward in association with this application, to be delivered in the future. The issue of pedestrian crossing the Level Crossing is a concern to the highway authority when the barriers are down, as it is understood that pedestrians have been known to cross the railway line which is clearly unauthorised and dangerous. This is more a matter of enforcement but clearly increased development to the east of the Level Crossing will result in an increase in pedestrian movement into the town and the highway authority would wish to encourage that sustainable travel mode. The barriers are an obstacle to that movement when the barriers are down and more so when there are issues on the line which have resulted in the barriers being down for long periods. A footbridge would assist in this regard but the costs associated are likely to be prohibitive.

As stated previously, there is a strong likelihood that residents of the development would route to and from Soulton Road via Cordwell Park when travelling to and from the east/northeast direction. Cordwell Park is designated as a 'Home Zone' where traffic management works have been implemented to reflect its limitations to act as a through route and is essentially suitable to cater for the development which accesses onto it. It is likely however that some traffic is already routing between Soulton Road and Aston Road through Cordwell Park, but it is highly likely that the proposed development would increase the traffic movements through Cordwell Park, which is not desirable.

The highway authority have less concern in respect of traffic potentially routing to Shawbury Road via Barkers Green than traffic routing towards the Level Crossing or using Cordwell Park. Although there are constraints along this route there are long sections where vehicles are able to pass.

As is set out in the NPPF it is necessary to demonstrate that the traffic impacts of a development are severe. As such is necessary also to put the development proposal into context, to look at the potential traffic flows during peak periods and how that traffic would be assigned to the local highway network. Whilst accepting that there are fundamental constraints as set out above, the highway authority consider that a highway objection would be difficult to sustain. Nevertheless the highway authority fully acknowledge the concerns of The Town Council, Wem Rural Parish Council and local residents, in particular any additional impact at the Level crossing. The issues of the Level Crossing are not necessarily linked to the peak AM and PM traffic flows on the highway network but also when the barriers have been down, traffic queuing then builds up and then traffic is then released.

Having regard to the above whilst the highway authority consider that the a highway objection to the principle of development would be difficult to sustain, this should be on the basis of Section 106 funding towards investigating potential changes to the traffic management of the Level Crossing and implementing those changes.

4.1.10 **SC Rights of Way** – Footpath 2 Wem runs along the perimeter of the adjacent cricket ground but does not appear to be affected by the proposal.

4.1.11 **SC Ecology** – Has read the above application and the supporting documents, including Ecological Survey Report by Turnstone Ecology dated August 2014 and recommends the following conditions and informatives should be attached to any

consent.

Under Regulation 61 of the Conservation of Habitats and Species Regulations (2010), the proposed works will not have a likely significant effect on any internationally designated site. An Appropriate Assessment is not required.

Great crested newt

Five water bodies are located within 500m of the application site. Ponds 3 and 4 had good suitability for great crested newts (GCN). Ponds 1 and 2 had poor suitability but due to their proximity to the site, they had presence/absence surveys carried out. Pond 5 had a poor suitability and was not surveyed. All the surveys were negative and as such an informative is recommended.

Bats

The field boundaries are considered suitable for commuting and foraging bats. Two mature oak trees along the southern boundary have features suitable for roosting bats. These are shown for retention on the layout plan and a condition is recommended to provide additional artificial roosts. Lighting should be directed away from trees and hedgerows around the site and a condition is recommended.

Badger

No badger setts were found in or adjacent to the application site however badger footprints were and therefore informatives are recommended.

Reptiles

An informative is recommended to discourage reptiles from using the site during construction.

Nesting bird

Turnstone (2014) note that lapwing (a LBAP species) appeared to be attempting to breed on the site. They recommend that the wetter sparsely vegetated areas are retained or recreated on arable fields north of Church Lane (in the same ownership as the application site). A condition is suggested for achieving this and an informative recommended.

4.1.12 **SC Drainage** – No objection, subject to conditions

4.2 **Public Comments**

4.2.1 102 letters of objection have been received on behalf of the residents of Wem. Comments are available in full on the file but have been summarised as follows:-

- No need for further housing
- Impact and additional pressure on schools and doctors
- Loss of agricultural land
- Two storey properties adjacent to bungalows will change the character of the area
- Will overlook existing bungalows and reduce light
- Increase in noise and air pollution
- Potential for impact on future residents from industrial units
- Increase in traffic on surrounding narrow road network and historic bridges
- Narrow country lanes

- Will add to delays at the railway crossing
- Pedestrian access to the town is poor
- No reference to the Public Right of Way
- Danger to walkers, cyclists and horse riders
- Affect on wildlife including newts
- Flood risk from poor ground conditions, existing drainage and clay and sandy soil
- Insufficient capacity in foul sewers

4.2.2 A petition of 78 signatures has also been received on the following grounds:

- The two accesses are on narrow and unsuitable roads
- Traffic need to use the level crossing to access services and facilities
- Crossing causes congestion
- Roads in wider area are quite road and not suitable
- Drainage problems and flooding

4.2.3 Following amendments to the application further letters of representation have been received. Many of the issues raised above have been re-iterated with the following additional issues raised:

- The single access onto Aston Road is unsuitable, places greater pressure on the railway crossing and country roads
- The footbridge proposed will not improve traffic flow over the railway crossing
- New application does not address the problems raised by locals
- The additional signage made by Network Rail will not improve the safety of the level crossing
- The land is not within the SAMDev plan, outside the development boundary
- The development site has potential to expand and link to future development in the adjoining field
- The industrial site adjacent to the development will cause noise pollution to the residents
- Concerns the sewage systems is at its capacity
- Application does not offer any benefits to Wem's present and future residents
- Church Lane has flooded in the past, resulting in the closure of the lane
- Residents/commuters using Wem station is declining
- Empty homes should be filled before new ones are built
- No/very little job opportunities in Wem
- More suitable sites for development within Wem
- Unmanned rail crossing can sometimes cause the barriers to be down for up to an hour
- Increase in traffic could cause damage on three listed Bridges, in the surrounding area
- A one way system should be considered to help alleviate the problems of traffic
- Reducing the number of houses will have little impact on reducing traffic
- Grass verges are being eroded due to increases in traffic
- The removal of the proposed Church Lane access will create significantly more traffic on Aston Road, which is not suitable due to the narrow carriageway
- Loss of greenbelt between Wem and Aston

4.2.4 Wem Civic Society have also written in objecting to the proposal on the grounds of:

- The possible future footbridge for the railway line does not provide immediate assistance and is of no use to wheeled vehicles
- Signage will not resolve the longstanding problem at the railway crossing
- Site will be extended in the future to take in the part removed
- Increase in traffic
- Increase risk of flooding
- Will affect use of adjacent business sites
- Is not sustainable and will adversely affect this side of Wem

5.0 THE MAIN ISSUES

- Policy & principle of development
- Is the site sustainable?
- Economic considerations
- Social considerations
- Environmental considerations
- Layout, scale and design
- Impact on residential amenity
- Highways, access, parking and rights of way
- Impact on railway line and crossing
- Ecology and trees
- Drainage

6.0 OFFICER APPRAISAL

6.1 Policy & principle of development

6.1.1 Under section 38(6) of the Planning and Compulsory Purchase Act 2004, all planning applications must be determined in accordance with the adopted development plan unless material considerations indicate otherwise. Since the adoption of the Councils Core Strategy the National Planning Policy Framework (NPPF) has been published and is a material consideration that needs to be given weight in the determination of planning applications. The NPPF advises that proposed development that accords with an up-to-date Local Plan should be approved and proposed development that conflicts should be refused unless other material considerations indicate otherwise. The NPPF constitutes guidance for local planning authorities as a material consideration to be given significant weight in determining applications.

6.1.2 The NPPF sets out the presumption in favour of sustainable development as a golden thread running through plan-making and decision-taking (para. 14), so it applies, as a material planning consideration, in any event. The NPPF specifically aims to 'boost significantly the supply of housing', with the requirement for authorities to have a housing land supply of 5 years to achieve this. Therefore, the fact (and degree) that a proposed development helps to boost housing supply is a significant material consideration. These considerations have to be weighed alongside the provisions of the Development Plan, including those relating to housing supply.

6.1.3 In September 2013 the housing land supply in Shropshire fell below the 5 year requirement. This has now been updated following the submission of the

SAMDev Final Plan to the Planning Inspectorate. The Council is now in a position that it has identified sufficient land that addresses the NPPF 5 year housing land supply requirements. As such the Council's housing supply policies are not considered to be out of date under paragraph 49 of the NPPF and appropriate weight can be given to them in decision making.

- 6.1.4 The development boundary is currently established in the North Shropshire Local Plan (NSLP) 2005. It is considered that despite the time limitation on the NSLP (2000-2011), the development boundary for Wem continues to reflect the natural settlement form and should be given weight in decision making. There are no proposed changes to the development boundary in the area of the application site. The application site is not being proposed as a residential allocation in the SAMDev and will lie outside, but adjacent to, the current and proposed development boundary for Wem. It is therefore considered the site sits in a countryside location and Core Strategy Policy CS5 should be given consideration.
- 6.1.5 Core Strategy CS3 identifies Wem as a main market town and indicates the town will have development to strengthen its economic role and support and enhance its important community assets and maintain its role as a sustainable place. Submitted SAMDev policy S17 provides greater detail to the strategy for Wem and promotes a housing guideline of around 500 dwellings in the plan period (2006-2026) and allocates two sites for development (to provide 110 houses) north-west and south-west of the town so as to limit the potential for further cross town traffic and to reflect significant safety and congestion concerns regard the railway crossing to the east of the town centre. The explanation of the policy advises that since 2006 housing completion and commitment amounts to 372 dwellings and as such the plan needs to provide for a further 128 houses and the policy recognises the potential for windfall within the development boundary in addition to the allocated sites. The explanation also advises that the scale of development is limited due to the constraints of infrastructure such as traffic congestion, primary school provision, medical practice capacity and waste water treatment. All of these issues are material considerations in the determination of the application and matters which have been raised by objectors.
- 6.1.5 The application site was subject to a technical site assessment through the SAMDev process. This assessment covered many of the issues relevant for considering the site's general sustainability, albeit in the context of selecting suitable site allocations. The site was noted to be adjacent to the development boundary and not within any environmental or historic sensitive sites or within flood zones 2 or 3. It score positively for proximity to a bus stop and play area but negatively for distance from the primary school and for being part grade 2 and part grade 3 agricultural land. It was also considered as not as well related to the town centre facilities and services as some other alternative sites and that this was also undermined by highway and traffic issues associated with the railway crossing.
- 6.1.6 Given it has been established the Council's housing supply policies are considered up-to-date, and that this site is not proposed in the submitted SAMDev, it is considered the Development Plan does not establish the principal for development on this site. In accordance with Section 38(6) of the Planning and Compulsory Purchase Act 2004, it is therefore necessary to consider whether other material considerations, such as the NPPF's presumption in favour of

sustainable development and the need to significantly boost housing supply, in this instance warrant a departure from the Local Plan. The fact that the site is not within the development boundary for either the NSLP or the SAMDev is not itself a reason to refuse planning permission on the site.

- 6.1.7 In the intervening period between submission and adoption of the SAMDev, sustainable sites for housing where the adverse impacts do not significantly and demonstrably outweigh the benefits of the development will still have a strong presumption in favour of permission under the NPPF. As such it remains officer's advice that it would be difficult to defend a refusal for a site which constitutes sustainable development and that the presumption in favour of sustainable development at paragraph 47 of the NPPF is given greater weight than either the adopted or forthcoming policies. The NPPF does not permit a housing development free-for-all; the principle issue for consideration is whether the development is sustainable or not when considered against the NPPF as a whole. As such a development which is not sustainable can be refused against the NPPF but officers advise that caution should always be taken when considering refusal against the NPPF. Paragraph 14 advises that the adverse impacts of granting consent would need to significantly and demonstrably outweigh the benefits.
- 6.1.8 Policy CS6, amongst a range of considerations, requires 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. Policy CS7 states that a sustainable pattern of development requires the maintenance and improvement of integrated, attractive, safe and reliable communication and transport infrastructure and services. And policy CS9 states that development that provides additional dwellings or employment premises will help deliver more sustainable communities by making contributions to local infrastructure in proportion to its scale and the sustainability of its location.
- 6.1.9 It is also appropriate to consider the NPPF as a whole in assessing the sustainability of this proposal. Paragraph 14 of the NPPF states that within the context of the 'presumption in favour' development should be approved unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits.
- 6.2 **Is the site sustainable?**
- 6.2.1 Paragraph 7 of the NPPF sets out the three dimensions to sustainable development and provides an overview of what is considered to be the economic, social and environmental roles of the planning system. For a site to be considered to be sustainable development the three dimensions need to all be provided and the presumption in favour of sustainable development advises that, unless there are material considerations which significantly and demonstrably outweigh the benefits, consent should be granted. It is not a case of having to prove the benefits outweigh the harm but to prove that any harm substantially and demonstrably outweighs the benefits.
- 6.2.2 The site is located on the outer edge of one of the larger settlements in North Shropshire and an identified market town. The planning statement notes that Wem is a large settlement with a range of services and facilities including shops, post

office, schools, play areas, churches, pubs, the train station, doctors and dentist. The application site is considered by the agent to be within a short walk/ cycle distance from the town centre. It notes the distances to the nearest bus stop, the town centre, train station and schools.

- 6.2.3 It is acknowledged that the NPPF advises that local authorities should seek to approve applications for sustainable development and work with applicants to find solutions. However, the presumption in favour of sustainable development is also not a free for all. The cumulative impact of additional new housing is also a material consideration. Recent planning inspectors' decisions have taken into account the adverse impact of increasing the number of dwellings in a settlement, outside of the plan making process, as a material consideration. Substantial increases in residences could result in harm because of the need to allow time for proportionate increases in infrastructure and for the community to adapt, and the possible adverse impact on community cohesion. This is also considered within the forthcoming SAMDev policy MD3 which deals with proposed housing developments beyond the housing guidelines for a settlement. It is acknowledged that the site is not a proposed allocated site, however there is an overall need for additional housing over and above the proposed allocated sites. Officers consider that the scale of the development proposed could not be considered to be significant given the scale of the existing town, including taking into account other applications either consented or proposed, and is not of sufficient scale to tip the balance of community cohesion.
- 6.2.4 When assessing the sustainability of a site its distance from services, facilities and employment is one of a number of factors to be taken into account when undertaking the planning balance. Alongside issues of impact on highway safety, ecology, social impact and development and the loss of agricultural land.
- 6.3 **Economic considerations?**
- 6.3.1 The agent within the planning statement comments that the economic benefits include the overall boost to housing, construction jobs, support for local businesses, services and facilities and the payment of community infrastructure levy (CIL). An increase in the number of people living within the town would provide an increased amount of spending power which would help to support and maintain the wide range of services that the town has to offer and support the overall sustainability of the town.
- 6.3.2 Policy CS9 requires all new housing to financially contribute to the provision of infrastructure. This is done through the Community Infrastructure Levy which is a levy charged on new housing. The contribution is dealt with outside of the planning process and after development commences and is used to pay for infrastructure identified as local priorities. However, it is a material consideration in the determination of the application and the acknowledgement of the requirement to pay the CIL by the applicant ensures that this matter will be dealt with after the consent.
- 6.3.3 The Parish Council have commented that the town centre is substandard but have not given any detail behind this comment. It is true that Wem is the smallest market town in the north of Shropshire and has limited retail and service opportunities within the town centre. Nevertheless it does have a town centre and

primary shopping area in which the Council would support further retail and service development to enhance its viability and vitality. The provision of new housing does not result in detrimental harm to the vitality of a town centre and can increase spending in the town centre. Objectors have raised concerns that there are no or very little job opportunities in Wem, however the provision of new houses also brings the opportunities of new business and new income and to refuse an application for housing in one of the key settlements due to lack of jobs would run contrary to the housing allocations policy. There are no economic harms resulting from developing the site and as such the economic benefits of new housing needs to be part of the balance of determining the application.

6.4 **Social considerations?**

- 6.4.1 The only social benefit noted by the agent is the provision of a mix of housing. However, social benefit of development can also be gained from the provision of affordable housing, CIL and through the support which new dwellings and occupants provide to existing services and facilities. Policy CS11 of the Shropshire Core Strategy requires all housing developments to contribute to affordable housing in accordance with the Supplementary Planning Document (SPD) on Type and Affordability of Housing. Therefore, if this site is deemed suitable for residential development, then there would be a requirement for a contribution towards the provision of affordable housing in accordance with Policy CS11. The level of contribution would need to accord with the requirements of the Housing SPD and at the prevailing housing target rate at the time of reserved matters application.
- 6.4.2 It is recognised that increasing the number of residences in a settlement without a proportionate increases in the provision of local services risks impacting upon the social integrity the settlement. Concerns have been expressed by the Parish Council and local residents about the schools and medical centre struggling with the current population of Wem and the surrounding area.
- 6.4.3 With regard to school places, it is acknowledged that the local primary school is full, as noted by the Learning and Skills officer under section 4. The officer has advised that it is essential that developers contribute to the cost of additional places and facilities. This contribution would be through the payment of CIL, as noted above, the comment from the officer implies that further places and facilities can be provided at the primary school. This is not a case where the primary school can not develop further and it is a case of funding availability which will be dealt with through CIL and other Council funding.
- 6.4.4 It is acknowledged that the proposed development is a significant number of dwellings and would exceed the guidelines set within the SAMDev. However Wem is a large settlement and one that is expected to accommodate new development over the plan period, along with the other Shropshire Market Towns. It is considered by Officers that whilst the proposed development is large it is not considered to be so excessively large to overwhelm Wem or significantly impact upon the existing local community.
- 6.4.5 Officers acknowledge the DCLG quote referred to by the Parish Council but note that this is only a suggestion for further guidance and in the case of housing developments in Shropshire new infrastructure is funded, in part, through CIL

payments and that the delivery of infrastructure is timetabled and guided by the Place Plan for which the Town Council has substantial influence. Overall it is considered that the proposed addition of 50 dwellings on the site would not result in a level of pressure on local infrastructure which would justify refusing the application, where necessary identified improvements could be carried out by CIL which is generated by new development. The site is within walking distance of significant range of services, facilities, shopping and employment opportunities as well as primary and senior schools and the train station. The scheme would also provide new housing, including affordable housing.

6.5 **Environmental considerations?**

- 6.5.1 Within the planning statement the agent comments that there are no heritage, cultural or ecological designations and that visual impact can be mitigated by landscaping; that the development will protect amenity and is accessible by foot and cycle. As part of the application, and in accordance with the requirements of adopted policy, the proposal includes an area of open space which is an environmental benefit resulting from the development of the site.
- 6.5.2 The application site is in part grade 2 and part grade 3 agricultural land which is of 'good to moderate' quality and considered to be best or most versatile agricultural land. The National Planning Policy guides local authorities to consider the economic and other benefits of agricultural land and, where significant development is necessary, to use lower quality land in preference to higher quality land. Although the development of this site will result in the loss of an area of good to moderate quality land it is considered by officers that the economic benefits of the proposed development outweigh the economic benefits of retaining the land in agricultural use. The need for retaining agricultural land for food production does not outweigh the presumption in favour of sustainable development. Overall, although the loss of agricultural land is a harm resulting from the development this harm is not considered to outweigh the benefits.
- 6.5.3 Objectors have raised concern about the loss of the agricultural land, which is dealt with above, and also raised concerns about the potential impact on the character of the area, the amenities of existing and future residents, affect on wildlife and the impact of traffic. The main consideration of environmental impact is dependent on the layout, scale and design and the impacts on highways, trees, ecology and drainage. These matters are considered in detail in the following sections.
- ## 6.6 **Layout, scale and design**
- 6.6.1 Policy CS6 'Sustainable Design and Development Principles' of the Shropshire Core Strategy requires development to protect and conserve the built environment and be appropriate in scale, density, pattern and design taking into account the local context and character. The development should also safeguard residential and local amenity, ensure sustainable design and construction principles are incorporated within the new development.
- 6.6.2 As an outline planning application the current application is seeking consent for the principle of developing the site for housing. An indicative plan has been submitted but is not for consideration at this stage of the application process. The final layout, scale and appearance will need to be submitted as applications for

approval of reserved matters at a later date. The indicative layout shows the 50 dwellings on the 2.67 hectare reduced site area with a single vehicular access off Aston Road with an area of open space on the roadside retaining the existing two large trees within the open space and a group of semi detached houses behind the open space. Behind the road fronting houses the site is proposed to be laid out with adoptable roads, open space, retaining existing landscaping and with detached and semi detached houses. Each dwelling is proposed to have parking and garden space, in the main adjacent to the house. The Council Conservation Officer has advised that the design of any proposed dwellings should reflect the local vernacular detail in terms of scale, details, materials and layout.

6.6.3 It is accepted that the indicative layout shows two storey dwellings on the site which is backed onto by existing single storey properties, however there are two storey properties in the immediate area and this part of the town is not dominated by single storey development and, although the concerns of the residents are noted, officers do not consider that the development of the site for two storey houses would be out of keeping with the wider area. Whether the proposal results in an impact on amenity is considered below. Neither the layout or scale, as noted previously, are for consideration at the outline stage, both are reserved for later approval. Officers advice at this stage would be that the small semi detached houses on Aston Road are out of keeping with the context of this part of Aston Road and this part of the site should be developed with a couple of larger detached houses. Furthermore officers would caution the use of parking courtyards and private driveways which are too long as these are not easily provided with natural surveillance and can cause issues with waste collection. However, these matters could be dealt with at reserved matters if consent for outline permission were to be granted.

6.7 **Impact on residential amenity**

6.7.1 Policy CS6 'Sustainable Design and Development Principles' of the Shropshire Core Strategy indicates that development should safeguard the residential and local amenity. As already noted within this report the site lies on the edge of the existing settlement. Neighbouring residents have raised concern about overlooking, loss of light, increase in noise and air pollution and the potential impact on the future residents from the adjacent businesses and visa versa. The proposed housing will back onto, and lies adjacent to, existing housing on Aston Road, Churchill Drive and Soulton Crescent. The houses on Aston Road are large detached properties with good sized gardens, the closest being a single storey property set back from the road. The indicative layout shows these houses over 14m from the nearest proposed dwelling. The properties on Churchill Drive and Soulton Crescent are single storey dwellings as such there is a potential risk that two storey development backing onto these properties could feel oppressive and excessive in scale. However, this will depend on the final layout. The indicative plan shows the nearest proposed dwelling as being 17m from the closest existing property though this appears to be between an existing rear elevation and a gable end of a proposed dwelling. The distance between facing elevations is shown at least 21m and therefore would reduce the potential impact so that it would not be considered to be unacceptable.

6.7.2 It is acknowledged that there are proposed garages closer to the existing dwellings however these would be single storey structures without any habitable

space and without windows overlooking existing properties. It is also accepted that the development of the site will significantly alter the outlook for the existing properties. However, a private view is not protected in planning considerations and providing the development of the site does not result in loss of light or unacceptable overlooking it would not be reasonable or defensible to refuse the application on loss of amenities. Officers consider that the size of the site is sufficient to enable housing development to be appropriately laid out so as not to result in unacceptable overlooking or loss of light and that the indicative layout shows the housing facing outwards onto Aston Road and backing onto existing housing and as such, in principle would be acceptable in amenity terms.

6.7.3 Given the proximity of the site to the existing employment sites both north and south of the application site the Council Public Protection Officer has advised that there is a potential for noise to affect the amenities of the future residents of the application site. A noise survey is recommended along with recommended noise levels for internal and external spaces. Officers advise that it is not essential to undertake the noise survey at this outline stage in the process and that the survey would need to be done prior to the final layout being established as the layout would be affected by the noise levels on the site. This is especially true given the change of the nature of the use of the employment site noted by objectors.

6.8 **Highways, access, parking and rights of way**

6.8.1 Paragraph 32 of the NPPF advises that developments that generate significant amounts of traffic should be supported by a Transport Statement and promotes sustainable modes of travel, safe accesses and improvements to existing transport networks. Core Strategy Policy CS6 states that proposals likely to generate significant levels of traffic should be located in accessible locations where opportunities for walking, cycling and use of public transport can be maximised and the need for car based travel to be reduced.

6.8.2 Following the submission of amended plans only one single vehicular access is now proposed, off Aston Road. The existing road is 5m wide with footways and street lighting which the agent considers can be extended up to the site boundary. The proposed junction onto Aston Road has visibility splays which the agent notes comply with Manual for Streets. The submitted highways and drainage statement acknowledges that the development will have some effect on the highway network but the consultant does not consider that the impact will be significant.

6.8.3 The planning statement advises that the intention would be to extend the 30mph limit to include the site access; however this is not a matter for planning and would need to be considered under separate legislation. It needs to be confirmed that the access is acceptable without extending the speed limit and should the limit be reduced then this would be additional benefit.

6.8.4 Within the site the estate roads are to be designed to discourage speed and the highway and drainage statement estimates 42 traffic movements in the morning peak hour and 47 in the afternoon peak hour. However, this was submitted with the initial proposal for 75 dwellings and therefore the traffic movements of the reduced scheme would be less but would also be all onto one access point on Aston Road.

- 6.8.5 Wem Town Council have objected to the development, their first point of objection relates to the existing, and potential increase, of traffic congestion at the railway crossing and the knock on impact of this congestion on traffic in the town centre and also on the capacity of Aston Road to accommodate the traffic. Wem Rural Parish Council have also raised concerns about the potential impact on the rural roads through Barkers Green and Aston. Local residents have raised similar concerns about the potential increase in traffic, the impact on the local road network, narrow lanes and bridges and that the removal of the proposed access off Church Lane adds pressure onto Aston Road and the railway crossing. The matter of impact on the railway is dealt with in the following section. This section deals with the issues of access and traffic on the road network, although officers acknowledge that there is some overlap between the subjects.
- 6.8.6 The Council Highway Officer has taken all of the concerns into consideration, reviewed the information submitted by the applicant and also undertaken a site visit and meeting with Network Rail in Wem and looked at the local issues. The issue of the traffic on the level crossing is dealt with below. However, as noted in section 4.1.9 of this report the Council Highway Officer has advised that, in principle, the point of access shown to serve the site off Aston Road is acceptable and that there would not be sufficient grounds to refuse the application on traffic levels on the local highway network.
- 6.8.7 Residents have also raised concern about the impact on public rights of way, cyclists and horse riders however the Council Rights of Way Officer has confirmed that Footpath 2 Wem runs along the perimeter of the adjacent cricket ground but does not appear to be affected by the proposal. The impact on cyclists and horse riders will also be impact from additional traffic on the local highway network to which officers do not consider is a significant impact which would outweigh the benefits of the development.
- 6.9 **Impact on railway line and crossing**
- 6.9.1 One of the main areas of concern raised by the local community and town council is the impact of the traffic, both vehicular and pedestrian, on the railway line and crossing. The concerns raised are similar to those raised during the consideration of potential sites for the SAMDev in that sites to the west of the town have been carried forward to reduce the impact on the railway crossing. The concerns relate to the additional increase of traffic which would cross the level crossing and therefore add to the existing congestion when the crossing gates are closed.
- 6.9.2 Within the planning statement the agent comments that the development of the site on the eastern side of Wem will provide residents with a route out of town, along the B5056, which will not involve using the level crossing. Furthermore the highways and drainage report suggest that the development will only result in a small increase in traffic using the level crossing in comparison to the existing flows. The report does acknowledge that delays at the crossing have extended since the automation of the gates but the consultant does not consider the delays to be unacceptable and has recommended additional signage and lines to provide minor improvements.
- 6.9.3 In seeking to overcome Network Rail's initial holding objection the agent has agreed to the provision of signage at the end of Church Lane to make residents

aware of potential delays through the town centre via the level crossing and road markings outside The Plantation on Soulton Road in the form of a hatched area to keep it clear for emergency vehicles to enter and exit the site. They have also agreed to repaint the road markings around the level crossing, which have faded significantly over the last 12 months since the crossing was upgraded or provide a contribution towards the upkeep of the markings, and provision of a financial contribution towards a potential footbridge, which all developments on this side of the town would be expected to contribute towards.

6.9.4 Local residents have commented that a footbridge will not improve traffic flow over the railway crossing and that additional signage will not improve safety. However, this is not consistent with the advice from Network Rail who originally objected but removed their objection following a meeting with the agent at which the potential for new signage, updated road markings and a financial contribution to be paid towards the future provision of a footbridge. This would need to be dealt with through a S106 and the precise amount of funding discussed with Network Rail to establish the cost of the footbridge.

6.9.5 The Council Highway Officer's advice is provided in full at 4.1.9 above. With regard to the traffic on the railway crossing junction the officer has advised that an objection would be difficult to sustain but accept that the development will increase the right turn movement into Aston Road from the town centre. It is accepted that the greater increase in traffic movements, as a result of new development, will have an impact upon the operation of the highway layout associated with the Level Crossing and the Highway Officer and Network Rail Officer at their site meeting agreed that there is potential merits in reassessing the traffic flows around the crossing. As a direct impact from the development the Highway Officer has advised that a financial contribution towards investigating the options, the consultation with the community, and potential implementation of the changes to the traffic management should be sought from the development.

6.9.6 In requesting this contribution the Highway Officer has advised that the financial contribution suggested towards the footbridge would be beneficial in promoting access to the town on foot and reducing the risk of pedestrians attempting to cross when the barriers are down but also considers that the provision of such a footbridge would be cost prohibitive. It is also worth re-noting the comments of the residents that the footbridge would not improve traffic flow. However, the financial contribution requested by the Highway Officer has the opportunity to improve traffic flow. This would not be possible without funding and as such the proposed residential development will help to provide the funding. It is therefore recommended that a financial contribution be sought from the developer of the site towards investigating potential changes to the traffic management of the Level Crossing and implementing those changes and not a contribution to a footbridge or improved and replacement signage.

6.10 **Ecology and trees**

6.10.1 The NPPF and policy CS17 of the Shropshire Core Strategy require consideration to be given to the impact of the proposed development on the natural environment. This particularly relates to the impact on statutorily protected species and habitats and existing trees and landscaping. A protected species survey has been undertaken and submitted with the application and this has been

considered by the Council Ecologist.

- 6.10.2 The ecology report provides details of the recorded information and surveys of the site and surrounding area. The site is agricultural with a roadside hedge to the north, trees on the south both of which have gaps and sections of poor quality and garden fences and scattered trees on the western boundary. Within the report the consultant acknowledges that the field has wide field margins on the north and west sides which provide good habitat and that there is a small area of standing water due to a depression in the ground level in the western part of the field, a well established fishing pool and pond to the north and that the river Roden is within 250m of the site.
- 6.10.3 There are no designated sites within 2km of the application site. However the field margins and the existing trees, including 2 mature oaks on the south boundary, do provide potential habitats. The report considers that there is limited potential for bat foraging and no roosting potential; no badger setts but evidence of badgers crossing the site to access other areas; that the site is suitable for ground nesting birds and that the trees and hedges would be suitable for birds nesting. With regard to great crested newts (GCN) the report notes that there are records of GCN in Wem but that these are on the opposite side of the town and separated by roads and the railway line. Surveys were undertaken of 4 ponds in the area which were considered to be suitable for GCN, 1 other pond was not considered to be suitable and all others are disconnected from the site. Of the 4 ponds only 1 had evidence of newts but these were Palmate and Smooth newt not GCN.
- 6.10.4 The report recommends work outside the root protection area of trees; native species planting within the site and to infill the gaps in the boundaries; lighting, bat boxes and bricks; construction methods to prevent impact on badgers and site clearance outside of nesting season.
- 6.10.5 The Council Ecologist's comments are provided in full in section 4 of the report. In conclusion the ecologist has confirmed that they have no objection to the development of the site and recommends conditions and informatives which will enhance the habitat for ecology and ensure no protected species are adversely affected. As such ecology is not a barrier to development of the site and can result in enhancements and therefore complies with the requirements of policy CS17 in that regard.
- 6.11 **Drainage**
- 6.11.1 Policy CS18 'Sustainable Water Management' of the Shropshire Core Strategy indicates that development should integrate measures of sustainable water management to reduce flood risk and avoid an adverse impact on water quality and quantity. The site is within flood zone 1 and is therefore not recognised by the Environment Agency as an area at risk of flooding. Surface water is proposed to be discharged to soakaways via attenuation and foul drainage is to be connected to the existing mains drainage system.
- 6.11.2 Within the drainage section of the highways and drainage report the agent provides details of the surface water drainage for the houses as being discharged to soakaways within domestic gardens and the surface water from the roads being dealt with through soakaways via an attenuation system.

- 6.11.3 The report also includes a flood risk assessment due to the size of the site. This report notes the site levels as ranging from 79m AOD to 80m AOD and therefore shows that the ground level of the site is fairly level. The report recommends finished floor levels at 150mm above existing ground level although it does advise that there is no evidence of flooding on the site and therefore the development will not increase flood risk and can be designed to deal with its own surface water without increasing flood risk elsewhere.
- 6.11.4 Local objectors have raised concerns about the potential for flooding and the pressure on the mains foul drainage system. The Council Drainage Engineer has considered the submitted information and has raised no objection recommending that additional information is provided through conditions. As an outline planning application this is standard practice unless there is known flooding issues. The concerns raised locally relate to ponding within the site, however this will be a matter for the developer to resolve to ensure that the either the future occupiers or existing occupiers are at risk of flooding.
- 6.11.5 With regard to foul drainage mains drainage is available in Wem and for foul drainage disposal the development would be expected to connect to the existing mains sewer. It will be the applicants/developers responsibility to pursue consent from the service provider to connect into the foul main sewer. Whilst objectors have questioned the capacity of the sewer and mentioned blockage problems this issue is a matter for the service provider and is not a reason to refuse planning permission.
- 6.12 **Other matters**
- 6.12.1 The Council Archaeologist has advised that a desk based assessment of archaeology should be carried out prior to the determination of the current application as, although the site is not recorded as containing any archaeological features, metal detectorists have found a number of pieces of medieval and post-medieval metalwork within the immediate vicinity and this suggests that the proposed development site therefore has some archaeological potential.
- 6.12.2 The agent has confirmed that this work is underway and will be submitted to the Council shortly. It is therefore recommended that in principle members could resolve to grant planning permission subject to satisfactory resolution of this matter and any additional conditions requested by the Council Archaeologist.

7.0 CONCLUSION

- 7.1 The site is located outside the current development boundary for Wem and is therefore classed as a departure from the development plan. However, it is accepted that the site is in a sustainable location, on the edge of the existing built development, where it benefits from the facilities, services and infrastructure offered by the market town and will provide additional housing supply in accordance with national planning policy priorities. Furthermore, the development will provide for affordable housing in accordance with Policy CS11 and infrastructure provision in accordance with policy CS9 and will not result in significant loss of agricultural land.
- 7.2 In principle the site can be developed for housing without adversely affecting the

amenities of the existing properties, in context with the surrounding built form and with an appropriate access. Furthermore, the site can be provided with satisfactory foul and surface water drainage arrangements, will not be harmful to local habitats or biodiversity and public open space will be provided which also improves the accessibility and the landscaping of the area.

- 7.3 Accordingly, subject to conditions and the applicant entering into a S106 legal agreement to secure affordable housing, it is considered that the proposal meets with the housing policies and general requirements of the NPPF and otherwise complies with Shropshire Core Strategies CS6, CS9, CS11, CS17 and CS18 of the Shropshire Core Strategy. In arriving at this decision the Council has used its best endeavours to work with the applicant in a positive and proactive manner to secure an appropriate outcome as required in the National Planning Policy Framework paragraph 187.

8.0 RISK ASSESSMENT AND OPPORTUNITIES APPRAISAL

8.1 Risk Management

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

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

The decision is challenged by way of a Judicial Review by a third party. The courts become involved when there is a misinterpretation or misapplication of policy or some breach of the rules of procedure or the principles of natural justice. However their role is to review the way the authorities reach decisions, rather than to make a decision on the planning issues themselves, although they will interfere where the decision is so unreasonable as to be irrational or perverse. Therefore they are concerned with the legality of the decision, not its planning merits. A challenge by way of Judicial Review must be a) promptly and b) in any event not later than 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 give the right to respect for private and family life and First Protocol Article 1 allows for the peaceful enjoyment of possessions. These have to be balanced against the rights and freedoms of others and the orderly development of the County in the interests of the Community.

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

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

8.3 Equalities

The concern of planning law is to regulate the use of land in the interests of the public at large, rather than those of any particular group. Equality will be one of a number of 'relevant considerations' that need to be weighed in planning committee members' minds under section 70(2) of the Town and Country Planning Act 1970.

9.0 FINANCIAL IMPLICATIONS

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

10. BACKGROUNDRelevant Planning Policies

Central Government Guidance:
National Planning Policy Framework

Core Strategy and Saved Policies:
CS1 - Strategic Approach
CS3 - The Market Towns and Other Key Centres
CS5 - Countryside and Greenbelt
CS6 - Sustainable Design and Development Principles
CS9 - Infrastructure Contributions
CS11 - Type and Affordability of housing
CS17 - Environmental Networks
CS18 - Sustainable Water Management

11. ADDITIONAL INFORMATION

List of Background Papers (This MUST be completed for all reports, but does not include items containing exempt or confidential information)
Cabinet Member (Portfolio Holder) Cllr M. Price
Local Member Cllr Pauline Dee Cllr Chris Mellings
Appendices APPENDIX 1 - Conditions

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

1. Approval of the details of the siting, design and external appearance of the development 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 and the development shall be carried out as approved.

Reason: The application is an outline application under the provisions of Article 4 of the Development Management Procedure Order 2010 and no particulars have been submitted with respect to the matters reserved in this permission.

2. Application for approval of reserved matters shall be made to the local planning authority before the expiration of 12 months 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 begin 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. The following information shall be submitted to the local planning authority concurrently with the first submission of reserved matters:
 - The number of units
 - The means of enclosure of the site
 - The levels of the site
 - The drainage of the site
 - The finished floor levels

Reason: To ensure the development is of an appropriate standard.

CONDITION(S) THAT REQUIRE APPROVAL BEFORE THE DEVELOPMENT COMMENCES

5. No development shall take place until full scheme engineering details of the means of access, visibility splays, internal road layout together with footpath linkage along Aston Road have been submitted to and approved in writing by the Local Planning Authority; the development hereby permitted shall not be first occupied until the scheme has been implemented fully in accordance with the approved details.

Reason: To ensure a satisfactory means of access to the development site and in the interests of highway safety.

6. As part of the reserved matters details of the location and design of bat boxes or bat bricks suitable for nursery or summer roosting for small crevice dwelling bat species

shall be submitted to and approved in writing by the local planning authority. The approved details shall be implemented in full prior to the occupation of the dwelling/building.

Reason: To ensure the provision of roosting opportunities for bats, which are European Protected Species

CONDITION(S) THAT REQUIRE APPROVAL DURING THE CONSTRUCTION/PRIOR TO THE OCCUPATION OF THE DEVELOPMENT

7. A habitat management plan shall be submitted to and approved by the local planning authority prior to the occupation of the development. The plan shall include:
- a) Description and evaluation of the features to be managed;
 - b) Ecological trends and constraints on site that may influence management;
 - c) Aims and objectives of management;
 - d) Appropriate management options for achieving aims and objectives;
 - e) Prescriptions for management actions;
 - f) Preparation of a works schedule (including a 5 year project register, an annual work plan and the means by which the plan will be rolled forward annually);
 - g) Personnel responsible for implementation of the plan;
 - h) Monitoring and remedial/contingencies measures triggered by monitoring.
- The plan shall be carried out as approved, unless otherwise approved in writing by the local planning authority, for the lifetime of the development.

Reason: To protect features of recognised nature conservation importance.

8. Prior to occupation, a 'lighting design strategy for biodiversity' shall be submitted to and approved in writing by the local planning authority. The strategy shall:
- a) Identify those area/features on site that are particularly sensitive for bats and that are likely to cause disturbance in or around their breeding sites and resting places or along important routes used to access key areas of their territory, for example, for foraging; and
 - b) Show how and where external lighting will be installed (through the provision of appropriate lighting contour plans and technical specifications) so that it can be clearly demonstrated that areas to be lit will not disturb or prevent the above species using their territory or having access to their breeding sites and resting places. All external lighting shall be installed in accordance with the specifications and locations set out in the strategy, and these shall be maintained thereafter in accordance with the strategy. Under no circumstances should any other external lighting be installed without prior consent from the local planning authority.

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

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

9. During the demolition and construction of the site no burning shall occur on site at any time. This includes the burning of vegetation from clearance work.

Reason: to protect the amenity of the area

10. Construction work, including the arrival of deliveries and unloading of deliveries, shall only be carried out between the following hours: Monday to Friday 07:30-18:00, Saturday 08:00-13:00. No work shall be permitted on Sundays or Bank Holidays without written consent from the Local Planning Authority.

Reason: to protect nearby residential amenity and the health and wellbeing of residents living in close proximity to the development.

This page is intentionally left blank



Committee and Date

North Planning Committee

17 February 2015

Item

11

Public

Development Management Report

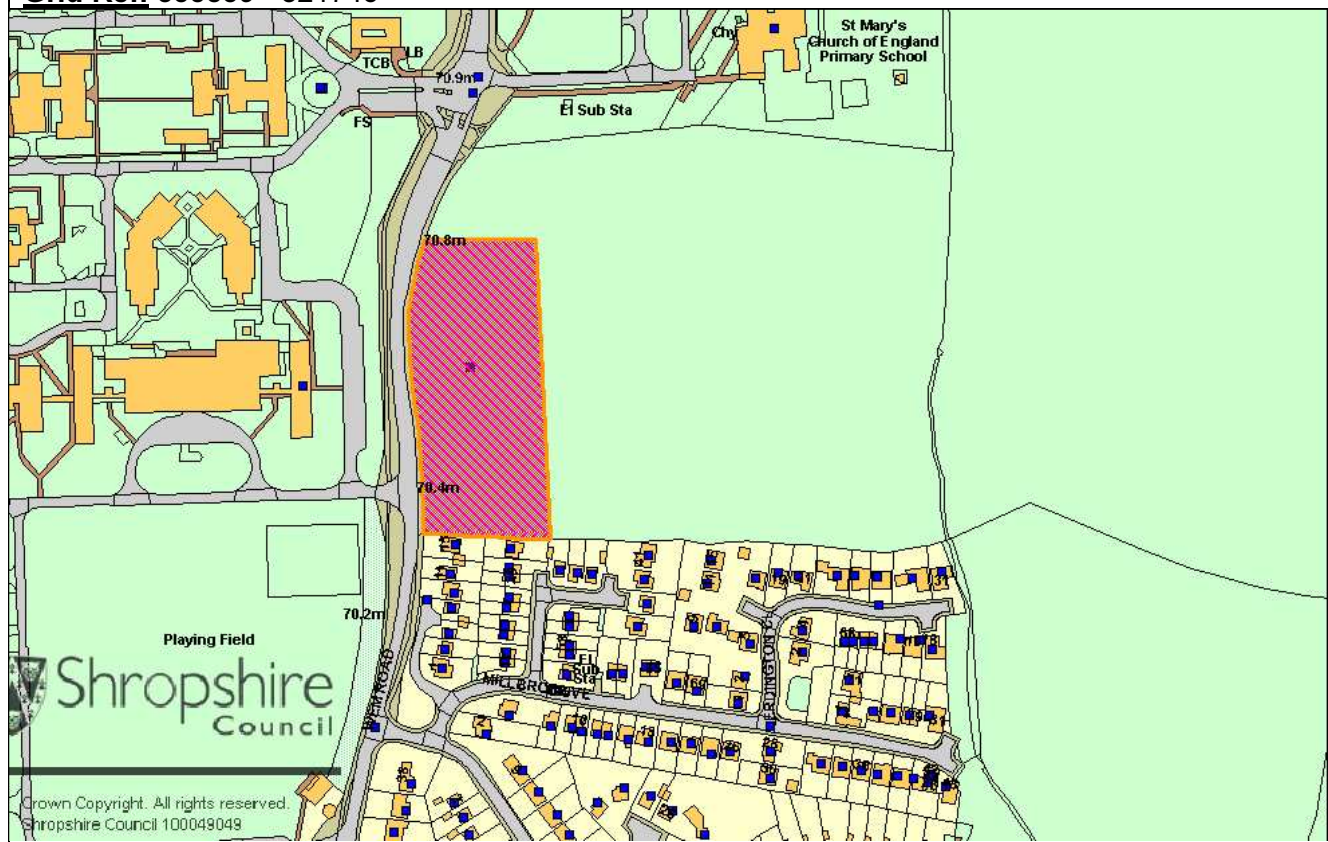
Responsible Officer: Tim Rogers

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

Summary of Application

Application Number: 14/04558/OUT	Parish:	Shawbury
Proposal: Outline application (access for approval) for mixed residential development		
Site Address: Development Land East Of Wem Road Shawbury Shropshire		
Applicant: Acton Reynald Estate Trustees		
Case Officer: Karen Townend	email: planningdmne@shropshire.gov.uk	

Grid Ref: 355859 - 321746



Recommendation:- Grant Permission subject to the applicants entering into a S106 agreement to secure affordable housing and subject to conditions set out in Appendix 1.

REPORT

1.0 THE PROPOSAL

1.1 The application seeks outline planning permission for residential development for up to 25 dwellings. At this outline stage access has been submitted for approval, all other matters of layout, scale, appearance and landscaping are reserved for later approval.

1.2 In support of the planning application the following documents have been submitted: Design and Access Statement, Ecology report and Noise Assessment.

2.0 SITE LOCATION/DESCRIPTION

2.1 The application site is 0.93 hectares in area and is part of a larger agricultural field on the edge of Shawbury. It has road frontage onto the Wem Road and lies opposite the RAF Shawbury base and buildings within the base. To the south of the application site lies an existing housing estate made up of a mix of detached and semi detached houses and bungalows. Two existing dwellings sit with their side elevations facing over the application site, one of which is a bungalow with ground floor windows in the facing elevation, the second is a two storey dwelling with one ground floor window. To the north of the site is agricultural land and north of that lies the exit road for the, now disused, primary school and the recently completed sports facilities for the RAF base.

2.2 There is a low roadside hedge running along the Wem Road with a footpath and the field boundary post and wire fence on the inside of the site but the side and rear boundaries of the application site are not currently defined and the land is open to the remainder of the field. The boundary with the adjacent dwellings is also a hedge which varies in height. The main part of Shawbury lies to the south of the application site.

3.0 REASON FOR COMMITTEE DETERMINATION OF APPLICATION

3.1 The Parish Council has submitted a view which is contrary to the officers recommendation and is based on material planning reasons which can not be overcome by condition or negotiation.

This has been discussed with the Chair of the Planning Committee who has confirmed that the application should be considered by members.

4.0 COMMUNITY REPRESENTATIONS

4.1 Consultee Comments

4.1.1 **Parish Council** – Object to the plans for the following reasons:

(a) The results of the Parish wide questionnaire and the public meeting called to discuss Shawburys response to the fifteen year planning cycle had overwhelmingly been that Shawbury should be classed as a hub but that development over the period should be restricted to fifty properties. There was already a plan on the table for a development of fifty properties on land adjacent to the A53.

- (b) As Shropshire had now reached its SAMDev land target, the results of the public consultation and the Parish Place Plan could and should be observed.
- (c) When the preferred sites in the Parish had been considered, this site had been rejected in favour of the site alongside the A53.
- (d) There are sustainability concerns, especially in respect of providing Doctors surgery provision and the distance from the local primary school. This will result in children walking alongside the Wem Road and then crossing the busy A53 or in more vehicles transporting them. The school suggested by the developers is not a logical proposition.
- (e) Access to/from the site is directly onto Wem Road, notorious for excessive speed and heavy use, which has already been acknowledged by the extension of the 30mph speed limit; the installation of a Vehicle Operated Speed Control and regular visits by the Speed Watch Team. It is also close to the access to the RAF station. Additional traffic on to this road will only increase the inherent dangers.

4.1.2 Ministry of Defence - Defence Infrastructure Organisation (DIO) – Royal Air Force (RAF) Shawbury lies to the north/west of the application site. It is home to the Central Air Traffic Control School (CATCS), the Defence Helicopter Flying School (DHFS), the Aircraft Maintenance and Storage Unit (AMSU), Central Flying School (Helicopter) (CFS (H)) Sqn and Air Traffic Management Standards and Evaluation (ATM Staneval).

CATCS trains all RAF and RN Air Traffic Controllers (ATC), Flight Ops Officers (FOO) and Assistants (FOA), Air Traffic and Flight Ops Instructors and Unit Training Officers. DHFS trains tri-service helicopter pilots and crews. CFS (H) Sqn trains tri-service Qualified Helicopter Instructors and Qualified Helicopter Crewman Instructors. Training at RAF Shawbury enables front-line activity and is critical in priming the frontline with aircrew, ATC/Flt Ops personnel, and in pre-deployment training standardisation and deployment of Individual Augmentees. RAF Shawbury is currently an intensively operated RAF airbase. Notwithstanding this, it is expected that the operation of RAF Shawbury will intensify further in the future. To this effect, the DIO wishes to raise the following points regarding the future of the airbase:

- It is expected that there will likely be an increase in helicopter operations in Low Flying Area 9 due to the drawdown of operations in Afghanistan and greater helicopter training taking place in the UK;
- Course sizes are increasing;
- The Defence Helicopter Flying School expect their output to increase in accordance with Future Force 2020 model;
- Over 50% of all flying training output for the military is rotary wing;
- UK Military Flying Training System Plans feature a potential relocation of activity on the airfield;
- Additional fixed-wing aircraft are expected in storage in the AMSU which will mean that there will be additional noise sources from fixed-wing ground engine running prior to storage and following removal from storage.

With regard to the proposed development, it is important to acknowledge that the MoD supports the principle of new residential development in the local area. However, in these circumstances, we wish to outline our concerns regarding this planning application.

Given the nature of operations undertaken at RAF Shawbury and their proximity to the application site, the MoD has significant concerns regarding the noise levels that would be experienced by the future inhabitants of the new houses proposed. Notwithstanding this, these concerns will be greater in future in line with the future proposals for RAF Shawbury. In view of these concerns, it would be our usual course of action to suggest that the application should be supported by a Noise Assessment and that suitable mitigation, in accordance with MoD Noise Amelioration Scheme (Military) (NAS(M)) specifications, is proposed to protect the future inhabitants from existing (and future) noise generated from RAF Shawbury.

In this case, the Applicant has submitted an Environmental Noise Assessment (reference 14947-1 R1) in support of their application. However, it is this Assessment which causes concern to the DIO for the following reasons; Firstly, paragraph 5.2.1 of Section 5.2 indicates that the noise monitoring surveys were carried out over a 3-day period from 23rd through to 25th April 2014, which is described by Noise.co.uk as “a typical weekday period”. Unfortunately, the DIO disagree with this statement given the period identified coincided with the Easter holiday period when on-site activity was quieter and included no night-time flying operations. N.B. on average, RAF Shawbury has 50 aircraft sorties a day. Therefore, this would not represent a typical weekday period for the site and RAF Shawbury. In addition, a 3-day period is not considered to be a sufficient timeframe due to the variable training programme which takes place at RAF Shawbury in which case a longer timeframe for the Assessment would be required. Accordingly, the DIO believe this statement is somewhat misleading.

Secondly, the Assessment almost considers RAF Shawbury itself to be the source of noise given that there has been no consideration of flight paths in/around RAF Shawbury and the application site and the potential for aircraft to fly over the application site. This is further evidenced by virtue of the monitoring position for the noise monitoring survey, which again considered the noise source to be RAF Shawbury but did not consider flight paths. Please be advised that whilst the application site is not in an area routinely transited by aircraft, it will on occasion be over-flown as it currently provides the only clear approach to the airfield from the east.

Thirdly, the assessment takes into account average noise levels only, which despite not being wrong in terms of guidance, would not reflect individual events on site. Therefore, it is suggested that this is somewhat misleading in these circumstances.

Fourthly, in respect to the noise attenuation measures proposed, average data has been used to specify the noise attenuation of the glazing proposed. It is suggested that the proposed mitigation would fail to meet the minimum standards of the NAS(M) specifications, in which case would be unacceptable in these circumstances. Please note that all glazing throughout the development scheme should comply with the minimum standards of the NAS(M) specifications. In view of the above, the DIO do not believe the Environmental Noise Assessment as submitted to be sufficient and fails to fully address the issue of noise. It is unfortunate that there has been no contact between the consultant and RAF Shawbury in advance, during or post completion of the noise monitoring surveys/assessment as this would no doubt have assisted and perhaps removed

the need for a further Assessment. Accordingly, the DIO suggest the application should be supported by a new Noise Assessment and that suitable mitigation, in accordance with MoD NAS(M) specifications, is proposed to protect the future inhabitants from existing (and future) noise generated from RAF Shawbury.

Following the submission of a new Noise Assessment, the MoD would appreciate the opportunity to review its content and be afforded a further opportunity to provide comments.

It is appreciated that the regular flying program at RAF Shawbury, in support of the Defence of the Realm, can unfortunately cause some annoyance to neighbours by reason of noise disturbance. With regard to the proposed development, should the Local Planning Authority decide to grant planning permission for residential development on this adjoining site to RAF Shawbury, the MoD/RAF will bear no responsibility for any complaints or claims from new residents in respect of matters of noise and will refer the complainants to the Developer and the Council.

Notwithstanding the above, it is my understanding that the MoD Safeguarding Department will be submitting additional representations in reference to this planning application. This response should, therefore, be read in connection with the MoD Safeguarding response.

4.1.3 **Ministry of Defence - Safeguarding** – The MOD has no safeguarding objections to this proposal.

4.1.4 **Affordable Housing** – If this site is deemed suitable for residential development, the scheme would be required to contribute towards affordable housing in accordance with Policy CS11 of the adopted Core Strategy. The level of contribution would need to accord with the requirements of the SPD Type and Affordability of Housing and at the prevailing housing target rate at the time of Reserved Matters application.

The current prevailing target rate for affordable housing in this area is 15% this would mean a provision of 3 Affordable houses on site along with a financial sum for the remaining percentage. The assumed tenure split of the affordable homes would be 2 for affordable rent and 1 for low cost home ownership and these would be transferred to a housing association for allocation from the housing waiting list in accordance with the Councils prevailing Allocation Policy and Scheme.

However as this is an outline application the percentage contribution and number of affordable homes will not be set at this time, but will be reviewed at the time of the reserved matters application. The size, type and tenure of the affordable housing needs to be agreed in writing with the Housing Enabling team before any application is submitted

4.1.5 **Public Protection** – The noise report attached to planning application 14/04558/OUT has not considered max noise levels and the number of these events that may occur on any day/night. This is not considered to be suitable due to the large number of flight movements potentially at low level which could impact on the proposed development in terms of max noise levels day and night. The

MOD/RAF state that the noise levels are not typical due to minimal flying activities during the survey in particular no or little night time flying. They were also not contacted to discuss suitable times for the noise survey to take place. Therefore the applicant should carry out a further noise assessment which takes into consideration noise data from a noise survey which the RAF agree represents at least typical day and night time noise levels and where possible a worst case scenario as well for comparison. This is fundamental in ensuring that appropriate mitigation is feasible. Mitigation is also required across the whole site rather than simply to the façade of building on the western edge of the development facing west due to flights overhead potentially being from any direction unless it can be demonstrated otherwise. The RAF/MOD may be able to give further comment on this aspect.

Alternatively a condition as stated above could be placed to ensure an appropriate assessment is carried out in future however I would encourage an appropriate assessment at this point in order that the financial implications of mitigation are known.

- 4.1.6 **Highways** – Raise no objection to the granting of outline consent subject to a condition to require details of the access and footpath linkage to Millbrook Drive.
- 4.1.7 **Ecology** – Recommends conditions and informatives. The hedgerows on site are likely to be used for bat foraging and commuting and also for nesting birds.
- 4.1.8 **Drainage** – No objection subject to conditions requiring full drainage details to be submitted as part of the approval of reserved matters application.
- 4.2 **Public Comments**
- 4.2.1 Three letters of representation have been received raising the following concerns:
- Overdevelopment with other proposals in the village
 - Loss of prime agricultural land
 - Old school site should be developed first
 - Impact on amenities
 - Increase in noise from new dwellings
 - Proposed houses are too close to existing dwellings
 - Increase in traffic on fast section of road

5.0 THE MAIN ISSUES

- Policy & principle of development
- Is the site sustainable?
- Economic considerations
- Social considerations
- Environmental considerations
- Layout, scale and design
- Impact on residential amenity
- Highways, access, parking and rights of way
- Ecology and trees
- Drainage

6.0 OFFICER APPRAISAL

6.1 **Policy & principle of development**

- 6.1.1 Under section 38(6) of the Planning and Compulsory Purchase Act 2004, all planning applications must be determined in accordance with the adopted development plan unless material considerations indicate otherwise. Since the adoption of the Councils Core Strategy the National Planning Policy Framework (NPPF) has been published and is a material consideration that needs to be given weight in the determination of planning applications. The NPPF advises that proposed development that accords with an up-to-date Local Plan should be approved and proposed development that conflicts should be refused unless other material considerations indicate otherwise. The NPPF constitutes guidance for local planning authorities as a material consideration to be given significant weight in determining applications.
- 6.1.2 The NPPF sets out the presumption in favour of sustainable development as a golden thread running through plan-making and decision-taking (para. 14), so it applies, as a material planning consideration, in any event. The NPPF specifically aims to 'boost significantly the supply of housing', with the requirement for authorities to have a housing land supply of 5 years to achieve this. Therefore, the fact (and degree) that a proposed development helps to boost housing supply is a significant material consideration. These considerations have to be weighed alongside the provisions of the Development Plan, including those relating to housing supply.
- 6.1.3 In September 2013 the housing land supply in Shropshire fell below the 5 year requirement. This has now been updated following the submission of the SAMDev Final Plan to the Planning Inspectorate. The Council is now in a position that it has identified sufficient land that addresses the NPPF 5 year housing land supply requirements. However, in calculating the 5 years' supply the Council recognises that full weight cannot yet be attributed to the SAMDev Final Plan housing policies as there are significant unresolved objections which will not be resolved until the public examination and adoption of the SAMDev.
- 6.1.4 In the intervening period between submission and adoption, sustainable sites for housing where the adverse impacts do not significantly and demonstrably outweigh the benefits of the development will still have a strong presumption in favour of permission under the NPPF. As such it remains officer's advice that it would be difficult to defend a refusal for a site which constitutes sustainable development and that the presumption in favour of sustainable development at paragraph 47 of the NPPF is given greater weight than either the adopted or forthcoming policies. The NPPF does not permit a housing development free-for-all, the principle issue for consideration is whether the development is sustainable or not when considered against the NPPF as a whole. As such a development which is not sustainable can be refused against the NPPF but officers advise that caution should always be taken when considering refusal against the NPPF. Paragraph 14 advises that the adverse impacts of granting consent would need to significantly and demonstrably outweigh the benefits.
- 6.1.4 It is acknowledged that the site is outside the development boundary for Shawbury as previously set within the North Shropshire Local Plan. As such the application has been advertised as a departure from the adopted local plan and would not normally be supported for development. The site is also outside of the proposed

development boundary in the forthcoming Site Allocations and Management of Development (SAMDev) plan. Shawbury in the SAMDev is identified as a community hub which will provide for modest growth of about 50 new dwellings over the plan period. There is one proposed allocation for new housing which is not the current application site and as such the proposed development would not comply with the proposed SAMDev. However, as noted above the SAMDev can only be given limited weight and it is still appropriate to consider whether the development would be considered as sustainable against the whole of the NPPF.

6.1.5 Policy CS6, amongst a range of considerations, requires 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. Policy CS7 states that a sustainable pattern of development requires the maintenance and improvement of integrated, attractive, safe and reliable communication and transport infrastructure and services. And policy CS9 states that development that provides additional dwellings or employment premises will help deliver more sustainable communities by making contributions to local infrastructure in proportion to its scale and the sustainability of its location.

6.1.6 It is also appropriate to consider the NPPF as a whole in assessing the sustainability of this proposal. Paragraph 14 of the NPPF states that within the context of the 'presumption in favour' development should be approved unless any adverse impacts of doing so would significantly and demonstrably outweighs the benefits.

6.2 **Is the site sustainable?**

6.2.1 Paragraph 7 of the NPPF sets out the three dimensions to sustainable development and provides an overview of what is considered to be the economic, social and environmental roles of the planning system. For a site to be considered to be sustainable development the three dimensions need to all be provided and the presumption in favour of sustainable development advises that, unless there are material considerations which significantly and demonstrably outweigh the benefits, consent should be granted. It is not a case of having to prove the benefits outweigh the harm but to prove that any harm substantially and demonstrably outweighs the benefits.

6.2.2 The agent has commented in the D&A that Shawbury is a main service village in the NSLP and that the site is approximately 400 metres from the village services and facilities and that there is a regular bus service (hourly six days per week). The agent also comments that the identification of Shawbury as a Community Hub in the SAMDev clearly shows that the settlement is sustainable and capable of accommodating development. However, just because a settlement has services and facilities and can accommodate development does not mean that all development should be granted. Each application needs to be considered on its own merits and each application needs to be shown to be sustainable development, not only within a sustainable settlement.

6.2.3 The Parish Council response notes that the site was not progressed in the SAMDev as another site was favoured. In considering the site the Council noted its good relationship with some recreation facilities but scored it poorly due to its

distance from some recreation facilities, close proximity to an ancient woodland, loss of agricultural land, distance from the primary school and close proximity to the RAF base. Overall the sustainability of the site was judged to be fair but it was not proposed for allocation as the alternative site was better located in relation to services and facilities in the village.

6.2.4 However, this does not mean that the proposed development is not sustainable. All three parts of the definition of sustainable development need to be considered and need to be given equal weight and consideration in the determination of the application. Some weight can also be given to the overall fair sustainability assessment previously noted.

6.3 **Economic considerations?**

6.3.1 The construction of new housing in, or on the edge of, Shawbury would support the businesses and services within the village. Furthermore, the development will result in construction jobs, new homes bonus, new residents, increased household expenditure and the resultant opportunities to support local shops and facilities.

6.3.2 The development will also be liable for payment of the Community Infrastructure Levy (CIL) which for this site would be at the £80 per square metre rate and be used in accordance with policy CS9 to support local infrastructure requirements. This money can be used to assist in resolving the issues raised within the local place plan.

6.4 **Social considerations?**

6.4.1 As noted by the objectors and the Parish Council, new housing in the village will also increase pressure on the services such as the school and doctors surgery. This is a social harm resulting from any development. However, objectors have also noted the size of the existing village, which is not considered to be a small village by officers but is considered to be a medium to large village with a good range of services and facilities.

6.4.2 Given the size of the existing village and that the development will provide community infrastructure levy payments, the impact of the scale of the proposed development of 25 houses is not considered to be a significant harm which would justify refusal of the application.

6.4.3 The application also proposes to provide affordable housing. Officers note the recent Ministerial statement and amendments to the National Planning Practice Guidance as a material consideration in determining a planning application. However, following a subsequent decision by the Cabinet of the Council, the Council continues to give full weight to Policy CS11 of the adopted Core Strategy and Type and Affordability of Housing SPD and continues to seek on site provision of affordable housing and/or developer contributions to the provision of affordable housing in relation to all sites (please see the public statement of the Council 'as published on the website 30/01/15' – or 'attached as appendix').

6.4.4 The application has been submitted with the Council Affordable Housing Form which confirms the applicant's willingness to provide affordable housing on the site. The form calculates the affordable housing required for 25 dwellings at the current target rate of 15%. However as an outline planning application the target

rate would be the rate at the time of the submission of reserved matters and furthermore the number of houses is not for approval at this time. As such the form can be considered to show an agreement in principle to affordable housing but does not set the level of affordable housing to be provided. Given the above, it is recommended that planning permission be granted only subject to the satisfactory completion of a legal agreement to secure the provision of affordable housing in accordance with the terms of the policy. Non compliance with the requirements of adopted Core Strategy Policy CS11 would mean that the proposal would be in clear conflict with the aims and requirements of the Development Plan and should therefore be refused, unless other material considerations indicate otherwise.

6.5 **Environmental considerations?**

6.5.1 It is acknowledged that the development of the site will result in the loss of a parcel of grade 3 agricultural land which is considered to be best and most versatile land and as such is a harm to be factored into the planning balance. However, as a site of 0.93 hectares the development of this site will only result in the loss of a small parcel of land and could not be considered as significant loss of agricultural land and as such the harm from the loss of the agricultural land needs to form part of the overall planning balance but is not considered to be significant and demonstrable to outweigh the presumption in favour of sustainable development.

6.5.2 The main consideration of environmental impact is dependent on the layout, scale and design and the impacts on highways, trees, ecology and drainage. These matters are considered in detail in the following sections

6.6 **Layout, scale and design**

6.6.1 Policy CS6 'Sustainable Design and Development Principles' of the Shropshire Core Strategy requires development to protect and conserve the built environment and be appropriate in scale, density, pattern and design taking into account the local context and character. The development should also safeguard residential and local amenity, ensure sustainable design and construction principles are incorporated within the new development.

6.6.2 The design and access statement notes that the indicative layout shows a mix of 2, 3 and 4 bed houses in a mix of terrace, semi-detached and detached house types. All the properties are intended to be 2 storey similar to the majority of the adjacent housing estate and the designs will pick up the features of the surrounding housing development. The indicative layout shows the dwellings served off a single access and with small groups of houses accessed off a main spine estate road.

6.6.3 As an outline planning application it is only possible to consider the principle of the development and the potential future development of the site. It is accepted that the development of the site will extend the built form of the existing village, however in the case of the application site the development would be enclosed on three sides by existing built development. It is an agricultural field within the village limits as defined by the welcome signs and the built form. It is not isolated and the development of the site would not intrude into open countryside surrounding the village, however it will result in the loss of a section of countryside

which is within the village and this will result in some visual harm.

6.7 Impact on residential amenity

- 6.7.1 Policy CS6 'Sustainable Design and Development Principles' of the Shropshire Core Strategy indicates that development should safeguard the residential and local amenity. Objectors have raised concerns about the potential for increased noise, loss of privacy and light and that the layout shows buildings too close to the existing properties.
- 6.7.2 The submitted plan is for indicative purposes only and is not submitted for approval at this time. It shows two detached dwellings on the edge of the site closest to the existing dwellings, one of which is a bungalow, the other is two storey. The indicative plan shows the proposed dwellings to be 7m from the side elevations of the existing dwellings with a single garage proposed in the rear of each new dwelling and as such would not adversely affect the sunlight to the existing properties to an unacceptable level. The dwellings will alter the outlook of the existing properties but planning does not protect a right to a view. Whether the proposed development affects privacy will depend on the internal layout of the proposed dwellings but it is considered that, in principle, the site can be developed without significant harm to the amenities of the neighbouring residents.
- 6.7.3 One objector has advised that they are ill and have suffered heart problems and stress. Officers have sympathy with the residents, however the health of local residents can not be a reason to refuse a development. Given the close proximity of the site to existing properties it would be wholly reasonable to limit the hours of construction and to require a construction method statement, through which, given the health issues raised, the Council could encourage the developer to limit activity in this area to reduce the impact to only the construction of the dwellings and garages.
- 6.7.4 It is also necessary to ensure the amenity of the future residents of the application site. The close proximity of the site to RAF Shawbury with its regular helicopter movements is a potential for noise generation. The applicant has undertaken and submitted a noise assessment which covered 3 days which the agent suggests are typical week days. The report assesses the existing noise levels on site and predicts noise levels in bedrooms and living rooms. Existing noise is from the road, RAF base, aircraft and helicopters. The recorded noise measurements were 65dB daytime and 57.5dB night time and aircraft noise was recorded 2-3 per hour with a measurement of 68.5LAm_{ax}. The report notes the British standards for noise levels in living rooms and bedrooms and recommends glazing requirements to reduce impact.
- 6.7.5 However, the response from DOI comments that the noise assessment is not a typical week day as it was conducted over the Easter period, did not take into account night time flying or overflying of the site and was not monitored for long enough to cover the varying activity from RAF Shawbury. Furthermore DOI consider that providing averages is misleading and that the mitigation would not be sufficient and that a further assessment should be carried out.
- 6.7.6 The Council Public Protection Officer has looked at the application details and the comments from the DOI with regard to noise and commented that an objection on

noise grounds could not be sustained in that mitigation could be achieved. However, the Public Protection Officer has noted that the noise report submitted does not consider maximum noise levels or the number of these events. As such it is advised that the report is not suitable and that mitigation may be required for the whole of the site not just the road frontage properties. It is therefore recommended that a further noise assessment should be undertaken prior to the determination of the application so that the land owner and future developers fully understand the potential costs of developing the site in such close proximity to the RAF base.

6.7.7 Confirmation has been received from the agent and the RAF Commanding Officer that the additional noise survey is to be undertaken at the end of February. As such officers consider that a resolution to grant consent can be provided by members subject to the results of the additional noise survey, and subject to a S106 in relation to affordable housing. Should the noise survey conclude that development can not proceed the application could be refused on this basis. Should the survey establish that development can proceed and recommend conditions these can be added if delegated power is given to officers. It is considered that the principle of whether the site can be developed in planning terms can be established whilst waiting for the noise survey to be done.

6.8 **Highways, access, parking and rights of way**

6.8.1 Paragraph 32 of the NPPF advises that developments that generate significant amounts of traffic should be supported by a Transport Statement and promotes sustainable modes of travel, safe accesses and improvements to existing transport networks. Core Strategy Policy CS6 states that proposals likely to generate significant levels of traffic should be located in accessible locations where opportunities for walking, cycling and use of public transport can be maximised and the need for car based travel to be reduced.

6.8.2 As noted above the access is submitted for consideration at this outline stage. The application proposes a single point of access to serve all 25 dwellings. The D&A notes that the access position is within the 30mph zone and that visibility splays can be provided at 2.4m by 90m. Concern has been raised by the Parish Council about the access position and by residents about the increase in traffic and the speed of traffic at this point.

6.8.3 The application has been considered by the Council Highway Officer who has not raised any objections. As such it is considered by officers that the access is acceptable and that the local highway network is capable of accepting the additional traffic.

6.8.4 Within the Design and Access Statement the agent notes the surfaced footpath inside the existing roadside hedge which will connect the proposed development site to the village and services.

6.9 **Ecology and trees**

6.9.1 The NPPF and policy CS17 of the Shropshire Core Strategy require consideration to be given to the impact of the proposed development on the natural environment. This particularly relates to the impact on statutorily protected species and habitats and existing trees and landscaping. A protected species

survey has been undertaken and submitted with the application and this has been considered by the Council Ecologist.

6.9.2 The submitted ecology survey notes that the site is not close to any designated sites, that there are records of bats, water vole, otter and Great Crested Newts in the local area and details the survey work undertaken for the application. The local ponds were surveyed but no evidence of GCN was found. No evidence was present of water vole or badger either. The report acknowledges the potential for nesting birds and bats using the boundary hedges. It recommends removal of the hedge for access outside of the nesting season, lighting specifications and biodiversity enhancements in the form of nesting boxes, bat boxes and native planting.

6.9.3 The Council Ecologists has considered the application and submitted information and has advised that there will not be any adverse impact and recommended conditions and informatives to ensure habitat enhancements.

6.10 **Drainage**

6.10.1 Policy CS18 'Sustainable Water Management' of the Shropshire Core Strategy indicates that development should integrate measures of sustainable water management to reduce flood risk and avoid an adverse impact on water quality and quantity. The D&A advises that the site is within flood zone 1 and as such is at low risk of flooding, that surface water is to be discharged to soakaways and that foul is to be discharged to mains.

6.10.2 The Council Drainage Engineer has not raised any concerns about flooding, foul or surface water and as such has recommended that the details of the proposed drainage can be dealt with by an appropriately worded condition. It is therefore considered that, in principle, the site can be developed without increasing the flood risk of the site or surrounding area in accordance with CS18.

7.0 **CONCLUSION**

7.1 The site is located outside the current development boundary for Shawbury and is therefore classed as a departure from the development plan, contrary to saved Local Plan policy H5 and Core Strategy policy CS5 in principle. Furthermore, within the emerging SAMDev the site has not been included within the development boundary or identified as a site for future residential development. As the site sits outside the current and emerging development boundary it is not considered the principle of development is established through the development plan. However, it is necessary to consider whether other material considerations warrant a departure from the development plan and in particular the NPPF's presumption in favour of sustainable development and need to significantly boost housing supply. With this in mind it is accepted that the site is in a sustainable location, where it benefits from connectivity to the village centre, services and facilities and will provide additional housing supply to help sustain the settlement and in accord with national planning policy priorities relating housing provision. In this context it is considered that the NPPF's presumption in favour of sustainable development and need to significantly boost housing supply weigh in favour of the application in this instance such as to warrant a departure from the development plan.

- 7.2 The development will need to provide for affordable housing in accordance with Policy CS11 and infrastructure provision in accordance with policy CS9. Both affordable housing and infrastructure provision offer community, social and economic benefits that lend to the sustainability of development in accordance with the requirements of the NPPF.
- 7.3 Officers are satisfied that the development can be served by satisfactory access and drainage arrangements and will not be harmful to the natural environment, subject to the imposition of recommended conditional requirements at this outline stage. With the recommended conditions in place, the proposal is considered to satisfy Core Strategy policies CS6, CS17 and CS18 and the associated sustainable objectives of the NPPF.
- 7.4 Notwithstanding the need to submit a reserved matters application for further assessment in relation to matters of scale, appearance, landscaping and layout, in principle the site is considered capable of being developed in a manner that will not be unduly harmful to the physical characteristics of the locality or to residential amenity of existing residents. The amenities of the future residents of the development are to be confirmed through an additional noise survey and possible mitigation methods. Accordingly, the proposal satisfies policies CS6 and CS17 and the NPPF at this outline stage.
- 7.5 Overall, it is considered that the outline proposal meets with the housing policies and general requirements of the NPPF and otherwise complies with Shropshire Core Strategies CS1, CS3, CS6, CS9, CS11, CS17 and CS18 of the Shropshire Core Strategy. Therefore, approval is recommended subject to the conditions of approval listed in the appendix below and the prior completion of a Section 106 agreement to secure the affordable housing contributions.
- 7.6 In arriving at this decision the Council has used its best endeavours to work with the applicant in a positive and proactive manner to secure an appropriate outcome as required in the National Planning Policy Framework paragraph 187.

8.0 RISK ASSESSMENT AND OPPORTUNITIES APPRAISAL

8.1 Risk Management

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

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

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

claim first arose first arose.

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

8.2 **Human Rights**

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

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

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

8.3 **Equalities**

The concern of planning law is to regulate the use of land in the interests of the public at large, rather than those of any particular group. Equality will be one of a number of 'relevant considerations' that need to be weighed in planning committee members' minds under section 70(2) of the Town and Country Planning Act 1970.

9.0 **FINANCIAL IMPLICATIONS**

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

10. **BACKGROUND**

Relevant Planning Policies

Central Government Guidance:
National Planning Policy Framework

Core Strategy and Saved Policies:
CS4 - Community Hubs and Community Clusters
CS5 - Countryside and Greenbelt
CS6 - Sustainable Design and Development Principles
CS9 - Infrastructure Contributions
CS11 - Type and Affordability of housing
CS17 - Environmental Networks
CS18 - Sustainable Water Management

11. **ADDITIONAL INFORMATION**

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

Cabinet Member (Portfolio Holder)
Cllr M. Price

Local Member
Cllr Simon Jones

Appendices
APPENDIX 1 - Conditions

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

1. Approval of the details of the siting, design and external appearance of the development 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 and the development shall be carried out as approved.

Reason: The application is an outline application under the provisions of Article 4 of the Development Management Procedure Order 2010 and no particulars have been submitted with respect to the matters reserved in this permission.

2. Application for approval of reserved matters shall be made to the local planning authority before the expiration of 12 months 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 begin 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. The following information shall be submitted to the local planning authority concurrently with the first submission of reserved matters:
 - The number of units
 - The means of enclosure of the site
 - The levels of the site
 - The drainage of the site
 - The finished floor levels

Reason: To ensure the development is of an appropriate standard.

5. No construction and/or demolition work shall commence outside of the following hours: Monday to Friday 07:30 to 18:00, Saturday 08:00 to 13:00. No works shall take place on Sundays and bank holidays.

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

CONDITION(S) THAT REQUIRE APPROVAL BEFORE THE DEVELOPMENT COMMENCES

6. No development shall take place, including any works of demolition, until a Construction Method Statement has been submitted to, and approved in writing by, the local planning authority. The approved Statement shall be adhered to throughout the construction period. The Statement shall provide for:
 - i. the parking of vehicles of site operatives and visitors

- ii. loading and unloading of plant and materials
- iii. storage of plant and materials used in constructing the development
- iv. the erection and maintenance of security hoarding including decorative displays and facilities for public viewing, where appropriate
- v. wheel washing facilities
- vi. measures to control the emission of dust and dirt during construction
- vii. a scheme for recycling/disposing of waste resulting from demolition and construction works

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

7. No development shall take place until full scheme engineering details of the means of access, visibility splays, internal road layout together with footpath linkage to Millbrook Drive have been submitted to and approved in writing by the Local Planning Authority; the development hereby permitted shall not be first occupied until the scheme has been implemented fully in accordance with the approved details.

Reason: To ensure a satisfactory means of access to the development site and in the interests of highway safety.

CONDITION(S) THAT REQUIRE APPROVAL DURING THE CONSTRUCTION/PRIOR TO THE OCCUPATION OF THE DEVELOPMENT

8. Prior to the first occupation of the dwellings details of five woodcrete bat boxes suitable for nursery or summer roosting for small crevice dwelling bat species shall be submitted to and approved in writing by the local planning authority. All boxes must be at an appropriate height above the ground with a clear flight path and thereafter be permanently retained. The approved details shall be implemented in full prior to the occupation of the dwelling/ building.

Reason: To ensure the provision of roosting opportunities for bats, which are European Protected Species.

9. Prior to the first occupation of the dwellings details of two woodcrete artificial nests suitable for small birds such as robin, blackbird, tit species, sparrow and swallow shall be submitted to and approved in writing by the local planning authority. The approved details shall be implemented in full prior to the occupation of the dwelling/ building.

Reason: To ensure the provision of nesting opportunities for wild birds.

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

10. Prior to the erection of any external lighting on the site a lighting plan shall be submitted to and approved in writing by the local planning authority. The development shall be carried out in accordance with the approved details and thereafter retained for the lifetime of the development. The submitted scheme shall be designed to take into

account the advice on lighting set out in the Bat Conservation Trust booklet Bats and Lighting in the UK

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

This page is intentionally left blank



Committee and Date
 North Planning Committee
 17 February 2015

Item
14
 Public

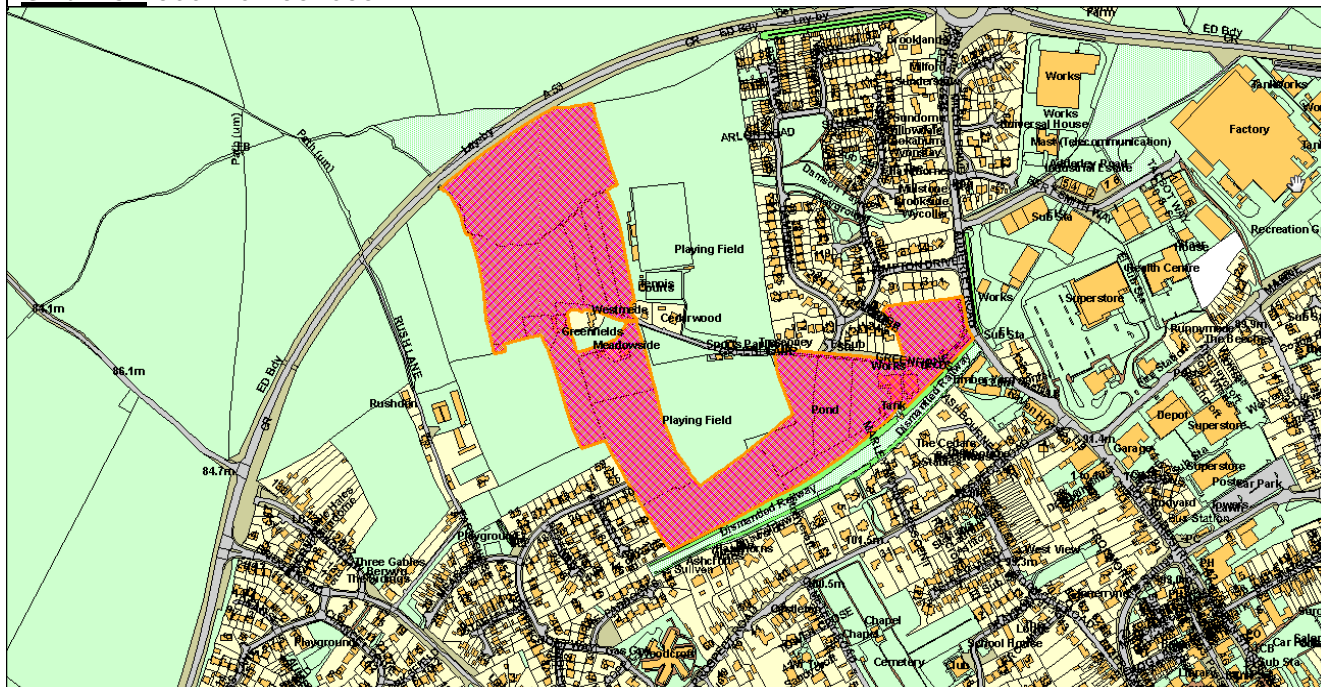
Development Management Report

Responsible Officer: Tim Rogers
 Email: tim.rogers@shropshire.gov.uk Tel: 01743 258773 Fax: 01743 252619

Summary of Application

Application Number: 14/03782/OUT	Parish:	Market Drayton Town
Proposal: Outline application (access for approval) for the residential development of up to 250 dwellings; to include demolition of existing structures on site; formation of vehicular accesses from the A53 and Hampton Drive		
Site Address: Land Off Greenfields Lane Market Drayton Shropshire		
Applicant: Danbank Developments Ltd		
Case Officer: Karen Townend	email: planningdmne@shropshire.gov.uk	

Grid Ref: 366726 - 334685



© Crown Copyright. All rights reserved. Shropshire Council 100049049. 2011 For reference purposes only. No further copies may be made.

Recommendation:- Subject to the deletion of the access of the A53 GRANT planning permission subject to the applicants entering into a S106 agreement to secure

affordable housing and a contribution towards public transport and also subject to the conditions set out in Appendix 1.

REPORT

1.0 THE PROPOSAL

- 1.1 This report is an addendum to the report presented to members in November 2014 which detailed the proposal for outline planning permission for residential development of 250 dwellings on a 11 hectare site on the northern side of Market Drayton, on the inside of the A53. It was one of two sites which members resolved to approve at the November meeting.
- 1.2 Members resolved to approve the application subject to an additional condition restricting the number of houses off Hampton Drive, the existing housing estate to the northeast.
- 1.3 However, it was not clear from the minutes of the meeting whether this condition was intended to restrict the number of houses which could use Hampton Drive as an access route or the number of houses which could be constructed using Hampton Drive. It is therefore essential that clarity is sought as the two different options have significantly different consequences for the future of housing development in Market Drayton.

2.0 Matters for Consideration

- Restriction of use of Hampton Drive
- Other matters

2.1 Use of Hampton Drive

- 2.1.1 To restrict the use of Hampton Drive to no more than 50 dwellings to be served off this existing road would firstly severely restrict the development of the application site and therefore the land allocated in the SAMDev and secondly is not justified in highway safety terms. To restrict the development in this way would mean that only 50 dwellings could be built and occupied using the existing estate road, Hampton Drive, and the remainder of the 250 dwellings could not be built until the land to the west and associated new access off the A53 had been developed up to the edge of this application site.
- 2.1.2 This would therefore place the applicant and developer of this site at the mercy of the applicant and developer of the adjacent site. Who would be able to, in theory, prevent any development beyond the 50 off Hampton Drive by not completing the development of their site to where the two sites meet. This would also place the applicant and developer of the application site at risk of being financially ransomed for the provision of access to the new roundabout off the A53. It is not appropriate for planning permission to result ransoms where it can be avoided and this form of restriction could also place the delivery of housing in Market Drayton, and potentially the 5 year land supply, at risk.
- 2.1.3 It is acknowledged by officers that members were concerned about the potential impact of the development on the existing residents of Hampton Drive. The

restriction of the number of houses off Hampton Drive would reduce the impact on these properties, however there are only approximately 20 properties which would be directly affected by additional passing traffic.

- 2.1.4 Furthermore, members should be aware of the SAMDev allocation for this site which, in addition to the adjacent land, sought a new access off the A53 but in doing so was intended to link this new access through to existing estate roads, including Hampton Drive. The restriction of the number of houses off Hampton Drive would result in a dead end and cul-de-sac being created off Hampton Drive and also result in a large housing development being created off the new roundabout off the A53 but with no other means of access or link to the town. It was never intended that all the traffic from the new development would access and leave via the new roundabout as this would not encourage connectivity with the town services and facilities. In addition the Council are seeking to enable the town bus service to be routed through the development.
- 2.1.5 The agent has also referred to the information provided with the planning application which shows that Hampton Drive is technically capable in terms of width, visibility and traffic capacity, to accommodate all 250 dwellings being proposed. Hampton Drive was constructed to accommodate a much greater level of traffic than it currently does to allow for the future extension of the estate. Once both parts of the SAMDev allocation are developed the recommended conditions will ensure that access is available direct off the A53 or through Hampton Drive and this would likely reduce the number of residents using Hampton Drive as their main route. However, the evidence provided by the agent, which the Council Highway Officer previously accepted, shows that there is no evidence against which officers could justify imposing a condition that limited the number of houses off Hampton Drive.
- 2.1.6 The alternative would be to limit the amount of construction traffic which could use Hampton Drive and officers consider that this would be appropriate. Although the agent has commented that the number of construction vehicles would be low officers consider that, due to the size of the development, the time taken to complete the development would mean that the construction vehicles would be spread over a number of years. Officers consider that the size of the vehicles and the length of the construction period would be detrimental to the amenities of the residents of Hampton Drive.
- 2.1.7 A restriction on the use of Hampton Drive for construction traffic will require an alternative access for these vehicles. There are currently two options which may resolve the situation, enable a limit to be placed on construction traffic use of Hampton Drive whilst not limiting the number of houses which could be constructed in the long term. The options are either the use of Greenfields Lane for construction traffic, though this may conflict with sports facility traffic and the use of the bridleway, or the creation of a temporary construction traffic access off the A53.
- 2.1.8 The agent has advised that if the development was to be built from a temporary access off the A53 a temporary road would need to be created through the fields and as such they would prefer to be able to use Greenfields Lane which is used by the sports clubs and PD Stevens business. However, the Council Rights of Way Officer has advised that there would be issues with using Greenfields Lane as this

is a bridleway and as such there are no public rights to use it with vehicles. The developer would need to obtain the consent of all of the landowners of Greenfields Lane. At this time the decision as to the alternative access has not been made and the two options would need further consideration.

- 2.1.9 Officers advise that this is a matter which could be controlled by condition and recommend the following wording:

Prior to the commencement of the development, including any works of demolition, a Construction Traffic Statement shall have been submitted to, and approved in writing by, the local planning authority. The Statement shall restrict the use of Hampton Drive for construction traffic to the construction of the first 50 dwellings only and shall show alternative means of construction traffic access for development beyond the first 50 dwellings. The approved Statement shall be adhered to throughout the construction period.

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

- 2.1.10 The above condition will ensure that the existing residents of Hampton Drive are not adversely affected to a significant level and also enable the development to continue beyond 50 houses whilst only allowing Hampton Drive to be used by existing and new residents and visitors. Officers consider that the condition detailed above would comply with paragraph 206 of the NPPF in that the condition would be necessary to make the development acceptable, relevant to planning and the development proposed, enforceable, precise and reasonable. Whereas officers advice would be that a condition that goes beyond the above condition and restricts residential use of Hampton Drive by future properties on the application site would not meet the tests of paragraph 206.
- 2.1.11 It is therefore requested that members reconsider their resolution and amend the wording of the condition added regarding the use of Hampton Drive to the condition detailed at 2.1.9 above.

2.2 Other Matters

- 2.2.1 The November committee meeting was also recommended for approval subject to the satisfactory resolution of an objection from the Environment Agency (EA) in relation to flood risk. The additional information requested by the EA had been provided by the agent prior to the November meeting but had not been commented on by the EA. Officers can now advise that the EA have withdrawn their objection and recommended conditions.
- 2.2.2 The EA have confirmed that the updated Flood Risk Assessment (FRA) has confirmed that the houses would all be within flood zone 1, that the assessment has included a worst case scenario and that the crossing over Sych Brook would be a clear span and therefore would not impede flood flows. Conditions are recommended regarding contaminated land and piling.
- 2.2.2 An update from the Council Ecologist was also outstanding at the time of the November meeting and this has now been received and confirmed that if the layout is not for approval at this stage then a condition requiring a 30m buffer zone to any active badger sett, with this securely fenced off prior to work starting and no ground works in the buffer could be acceptable. These conditions are shown added to the

list of conditions proposed in November.

3.0 CONCLUSION

3.1 The site is located outside the current development boundary for Market Drayton and is therefore classed as a departure from the development plan. However, the site is part of the three sites being promoted for future housing development in the SAMDev and it is accepted that the site is in a sustainable location, on the edge of the existing built development, where it benefits from the facilities, services and infrastructure offered by the market town and will provide additional housing supply in accord with national planning policy priorities. Furthermore, the development will provide for affordable housing in accordance with Policy CS11 and infrastructure provision in accordance with policy CS9 and will not result in significant loss of agricultural land.

3.2 Officers acknowledge the concerns of members, which reflected the concerns of local residents, and consider that the recommendations of the above report will ensure that the impact on existing residents is not unacceptable whilst not preventing development or placing the delivery of housing in Market Drayton at risk. The matters of flood risk and ecology which were outstanding when members previously considered the application have also been resolved and as such officers recommend that the planning permission is granted subject to all other matters which members resolved to approve it on in November 2014.

3.3 It is therefore recommended that planning permission be granted subject to:

- The deletion of the junction from the A53;
- The applicants entering into a S106 agreement to secure affordable housing and a contribution towards public transport;
- The conditions set out in Appendix 1; and
- Submission of Reserved Matters Application to be considered by the North Planning Committee.

3.4 It is therefore considered that, in principle, the proposal meets with the housing policies and general requirements of the NPPF and otherwise complies with Shropshire Core Strategies CS6, CS9, CS11, CS17 and CS18 of the Shropshire Core Strategy. In arriving at this decision the Council has used its best endeavours to work with the applicant in a positive and proactive manner to secure an appropriate outcome as required in the National Planning Policy Framework paragraph 187.

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

1. Approval of the details of the siting, design and external appearance of the development, 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 and the development shall be carried out as approved.

Reason: The application is an outline application under the provisions of Article 4 of the Development Management Procedure Order 2010 and no particulars have been submitted with respect to the matters reserved in this permission.

2. Application for approval of reserved matters shall be made to the local planning authority before the expiration of three 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 begin 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. Work shall be carried out strictly in accordance with the Bat Mitigation Strategy to be submitted.

Reason: To ensure the protection of bats, a European Protected Species

CONDITION(S) THAT REQUIRE APPROVAL BEFORE THE DEVELOPMENT COMMENCES

5. No development shall commence until a Master Plan showing how the permitted development will integrate with the remainder of the land identified for allocation under policy S11.1a of the Site Allocations and Management of Development (SAMDev) Plan Pre-Submission Draft (Final Plan) dated 17th March 2014 ("the S11.1a Land") has been submitted to and approved in writing by the Local Planning Authority.

The Master Plan shall address the following:

- Pedestrian and cycle links with the S11.1a Land to the east and west of the site and to the existing public right of way
- Vehicular links, including for public transport, from the approved access roundabout to the remainder of the S11.1a Land to the east and west of the site
- The provision of public open space.

Reason: To ensure that the development of the site does not prevent the development of the wider SAMDev allocation and enables comprehensive development of the SAMDev allocation.

6. Applications for approval of reserved matters shall thereafter be in accordance with the approved Master Plan.

Reason: To ensure that the development of the site does not prevent the development of the wider SAMDev allocation and enables comprehensive development of the SAMDev allocation.

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

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

8. *Prior to the commencement of the development, including any works of demolition, a Construction Traffic Statement shall have been submitted to, and approved in writing by, the local planning authority. The Statement shall restrict the use of Hampton Drive for construction traffic to the construction of the first 50 dwellings only and shall show alternative means of construction traffic access for development beyond the first 50 dwellings. The approved Statement shall be adhered to throughout the construction period.*

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

9. a) No development shall take place until a Site Investigation Report has been undertaken to assess the nature and extent of any contamination on the site. The Site Investigation Report shall be undertaken by a competent person and conducted in accordance with DEFRA and the Environment Agency's 'Model Procedures for the Management of Land Contamination, CLR 11'. The Report is to be submitted to and approved in writing by the Local Planning Authority.

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

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

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

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

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

10. *No site clearance works within 30 metres of the badger sett on site shall commence until the sett on site has been closed under licence accordance with details given in the Ecological Assessment by FPCR submitted on 22nd April 2014. The provision of herras fencing shall be provided to create a 30m buffer to the badger sett prior to works commencing and no ground works or material storage shall be permitted within the 30m buffer fencing.*

Reason: To ensure the protection of badgers, under the Badgers Act (1992)

11. No development approved by this permission shall commence until the applicant, or their agent or successors in title, have secured the implementation of a phased programme of archaeological work that makes provision for an initial field evaluation, comprising a sample geophysical survey and targeted trial trenching of any anomalies thus identified (up to a 2% sample of the study area), followed by further mitigation as appropriate. Each phase of work should be in accordance with a written scheme of investigation (WSI). These written schemes shall be approved in writing by the Planning Authority prior to the commencement of works.

Reason: The site holds archaeological interest

12. No ground clearance, demolition, or construction work shall commence until an Arboricultural Method Statement and Tree Protection Plan has been submitted to and approved in writing by the local planning authority to ensure no damage to any existing trees or hedgerows within or adjoining the site. The approved scheme shall be retained on site for the duration of the construction works.

Reason: To prevent trees or hedgerows on site from being damaged during building works.

13. Notwithstanding any indication on the approved plans, no development approved by this permission shall commence until a scheme for the disposal of foul waters for the entire site has been submitted to and approved in writing by the Local Planning Authority. For

the avoidance of doubt, surface water must drain separate from the foul and no surface water will be permitted to discharge directly or indirectly into existing sewerage systems. The development shall be completed, maintained and managed in accordance with the approved details.

Reason: To ensure a satisfactory form of development and to prevent an undue increase in surface water run-off and to reduce the risk of flooding

14. Demolition of Building 4 as identified in Figure 1 of the Ecology Survey Report by Penny Anderson Associates dated August 2014 shall not in any circumstances commence unless the local planning authority has been provided with either:
- a) A licence by Natural England pursuant to regulation 53 of The Conservation of Habitats and Species Regulations 2010 authorising the specified activity/development to go ahead; or
 - b) A statement in writing from the relevant licensing body to the effect that it does not consider that the specific activity/development will require a license.

Reason: To ensure the protection of bats, a European Protected Species

15. *Piling or any other foundation designs using penetrative methods shall not be permitted other than with the express written consent of the Local Planning Authority, which may be given for those parts of the site where it has been demonstrated that there is no resultant unacceptable risk to groundwater. The development shall be carried out in accordance with the approved details.*

Reason: To protect ground and surface waters ('controlled waters' as defined under the Water Resources Act 1991).

CONDITION(S) THAT REQUIRE APPROVAL DURING THE CONSTRUCTION/PRIOR TO THE OCCUPATION OF THE DEVELOPMENT

16. As part of the reserved matters details of the location and design of bat boxes or bat bricks suitable for nursery or summer roosting for small crevice dwelling bat species shall be submitted to and approved in writing by the local planning authority. The approved details shall be implemented in full prior to the occupation of the dwelling/building.

Reason: To ensure the provision of roosting opportunities for bats, which are European Protected Species

17. Buildings 9 to 12 shall only be demolished between the months of September to April unless otherwise agreed with the Local Planning Authority.

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

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

18. Prior to occupation, a 'lighting design strategy for biodiversity' shall be submitted to and approved in writing by the local planning authority. The strategy shall:

a) Identify those area/features on site that are particularly sensitive for bats and that are likely to cause disturbance in or around their breeding sites and resting places or along important routes used to access key areas of their territory, for example, for foraging; and

b) Show how and where external lighting will be installed (through the provision of appropriate lighting contour plans and technical specifications) so that it can be clearly demonstrated that areas to be lit will not disturb or prevent bats using their territory or having access to their breeding sites and resting places.

All external lighting shall be installed in accordance with the specifications and locations set out in the strategy, and these shall be maintained thereafter in accordance with the strategy. Under no circumstances should any other external lighting be installed without prior consent from the local planning authority.

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

19. During the demolition and construction of the site no burning shall occur on site at any time. This includes the burning of vegetation from clearance work.

Reason: to protect the amenity of the area

20. Construction work, including the arrival of deliveries and unloading of deliveries, shall only be carried out between the following hours: Monday to Friday 07:30-18:00, Saturday 08:00-13:00. No work shall be permitted on Sundays or Bank Holidays without written consent from the Local Planning Authority.

Reason: to protect nearby residential amenity and the health and wellbeing of residents living in close proximity to the development.

17th NOVEMBER REPORT

1.0 THE PROPOSAL

- 1.1 The application is for outline planning permission with only access submitted at this time for consideration. All other matters of layout, scale, appearance and landscaping are reserved for later approval. The application proposes up to 250 houses, vehicular access off Hampton Drive and the A53, areas of open space, landscaping and associated works. Two means of access are proposed, an extension of the existing estate road in Hampton Drive and a new junction off the A53 in the form of a priority, ghost island, junction. An indicative layout and artists impressions have been sent with the application to show how the site could be developed and also how the development of this site will connect to the adjacent site which is being considered under a separate application.
- 1.2 To support the proposal the application has been submitted with the following documents: Planning Statement, Design and Access Statement, Heritage Assessment, Transport Assessment, Travel Plan, Geo-environmental reports, Ecology Appraisal and Flood Risk Assessment.

2.0 SITE LOCATION/DESCRIPTION

- 2.1 This application site is 11 hectares in area and predominately farm land but also includes the site of PD Stephens and an area of previously developed land in the south east of the site. It is L shaped around the existing sports pitches off Greenfields Lane and lies to the south of the A53. Greenfields Lane, which is a bridleway, runs through the site and is currently used by the existing businesses, sports facilities and a small number of houses. The sports facilities include rugby and football pitches and tennis courts and their associated buildings and structures. The disused Market Drayton railway line sits to the south of the site on an embankment with residential development to the south and the modern housing estate of Hampton Drive lies to the east.
- 2.2 The land is generally level with only a small change in fall but is lower than the A53 and also has Sych Brook, an existing watercourse, running across the site which itself is at a lower level than the surrounding land. The existing buildings at PD Stephens would be demolished and the land redeveloped and one dwelling at the end of Greenfields Lane would be retained as it is outside the applicants ownership. The site will be highly visible from the A53 and also from the surrounding housing development.
- 2.3 The site lies on the northern edge of Market Drayton, within the bypass formed by the A53. The town centre is south of the site and approximately 2km away. Market Drayton is identified in both the North Shropshire Local Plan and the Shropshire Core Strategy as a Market Town and as such a key focus for new development.

3.0 REASON FOR COMMITTEE DETERMINATION OF APPLICATION

- 3.1 The application is considered by the Planning Services Manager to be a complex major application with relevant material considerations which would benefit from debate by the North Planning Committee.

4.0 COMMUNITY REPRESENTATIONS

4.1 Consultee Comments

- 4.1.1 **Market Drayton Town Council – Objection** To recommend refusal of the application on the grounds that a roundabout is needed on the junction with the A53 and the proposed 'T' junction would be inadequate and unsafe. It was suggested that a risk assessment of the traffic in the area would be needed.
- 4.1.2 **Moreton Say Parish Council** – No comments received at time of writing report
- 4.1.3 **Affordable Housing – No objection** If this site is deemed suitable for residential development, the scheme would be required to contribute towards affordable housing in accordance with Policy CS11 of the adopted Core Strategy. The level of contribution would need to accord with the requirements of the SPD Type and Affordability of Housing and at the prevailing housing target rate at the time of Reserved Matters application.

The size, type and tenure of the affordable homes will need to be agreed in writing with the Housing Enabling Team and would be transferred to a housing association for allocation from the housing waiting list in accordance with the Council's prevailing Allocation Policy and Scheme.

- 4.1.4 **Recreation and open space – No objection** As the outline planning application has no bed numbers and it is difficult to measure the open space allocation from the maps provided assumptions have been made. On the basis of 250 houses providing 750 bed spaces with a requirement of 30sqm per bed space the open space requirement for this development would be 22,250sqm. There appears to be slightly more than the required amount in this design if the attenuation pond, central greenspace, southern fringe of woodland and wildlife corridor are included. The allocation of greenspace will need to be checked in more detail when more detail is available.

The design of the open space is good with a large recreational space with points of interest, access and footpaths along with potential for this to be expanded along the valley as neighbouring developments arise. Perhaps seating and other infrastructure provision, including natural and formal play equipment, will be part of the final plan. There is also additional open space with access, ecological and landscape benefit on the site.

- 4.1.5 **Sport England – No objection.** The application relates to an outline proposal for the construction of up to 250 dwellings on land adjacent to existing playing fields. The site is not considered to form part of, or constitute a playing field as defined in The Town and Country Planning (Development Management Procedure) (England) Order 2010 (Statutory Instrument 2010 No.2184), therefore Sport England has considered this a non-statutory consultation.

Sport England has assessed the application in the light of Sport England's Land Use Planning Policy Statement 'Planning for Sport Aims and Objectives'. A copy of which can be found at:

http://www.sportengland.org/media/162412/planning-for-sport_aims-objectives-june-2013.pdf

The statement details Sport England's three objectives in its involvement in planning matters;

- 1) To prevent the loss of sports facilities and land along with access to natural resources used for sport.
- 2) To ensure that the best use is made of existing facilities in order to maintain and provide greater opportunities for participation and to ensure that facilities are sustainable.
- 3) To ensure that new sports facilities are planned for and provided in a positive and integrated way and that opportunities for new facilities are identified to meet current and future demands for sporting participation.

It is considered that the proposal would be consistent with Policy Objective 1 subject to access to the current sports facilities being maintained during and after implementation of the development, should the Council be minded to approve the application, which appears to be the position based on the details provided as part of the application.

This being the case, Sport England does not wish to raise an objection to this application

The absence of an objection to this application in the context of the Town and Country Planning Acts, does not in any way commit Sport England's or any National Governing Body of Sport's support for any related application for grants funding.

We would be grateful if you would advise us of the outcome of the application by sending a copy of the decision notice. If you would like any further information or advice please contact the undersigned at the address below.

4.1.6 **Learning and Skills** – No comments received at time of writing report

4.1.7 **Archaeology – No objection.** The proposed development site is located on the north-western edge of Market Drayton and is understood to comprise an overall area of approximately 11ha. Located within the former town fields, an Archaeological Desk Based Assessment submitted as part of the planning application confirms that earthwork remains of medieval/ post-medieval ridge and furrow survive within a limited area near the south-east corner of the site (between the playing fields and the industrial units at the eastern end of the site). No other heritage assets with archaeological interest are currently recorded on the Shropshire Historic Environment Record or identified within the Desk Based Assessment. Beyond the area containing earthwork remains of ridge and furrow, the Assessment concludes there is nil-low potential for remains of prehistoric, Roman and medieval date. However, there have been no previous archaeological field evaluations within the area of the proposed development site and its potential therefore remains untested. In this respect, it is noted that the site overlies Devensian fluvio-glacial drift deposits which in Shropshire have been settled and exploited from the later prehistoric period onwards.

It is advised that the archaeological Desk Based Assessment by CGMS Consulting which has been submitted with the application provides a satisfactory level of baseline information about the archaeological interest of the site in relation to Paragraph 128 of the NPPF. Given the assessed level of archaeological interest of the proposed development site, and the caveats cited above relating to this, it is advised that a phased programme of archaeological work be made a

condition of any planning permission for the proposed development. This should comprise a pre-commencement Level 2 survey of the archaeological earthworks that conforms with English Heritage's guidance on 'Understanding the Archaeology of Landscapes: A guide to good recording practice' (2009), together with a field evaluation of the remainder of the site comprising a sample geophysical survey and targeted trial trenching (up to a 2% sample of the survey areas). Thereafter, further archaeological mitigation may be required as appropriate, but to include as a minimum an archaeological watching brief during the groundworks phase of the development within the area containing the earthwork remains of ridge and furrow.

- 4.1.8 **Conservation** – Within the site it is noted that the farm buildings at Greenfields still exist, however, there would appear to be no plans to reuse them as part of the scheme (they appear to be on the general site of the square in the centre of the site).

The information regarding the buildings provided within the Heritage Statement is not sufficient when judged against the requirements of para 128 of the NPPF, they comment on the buildings and note the Farmstead Characterisation work undertaken by Charlotte Baxter (which was a rapid desk based assessment of the 1902 historic maps with no field assessment having been carried out) and therefore dismiss the buildings with no actual assessment of their significance being described, including any contribution made by their setting. As the buildings are intended to be demolished they should be appropriately assessed to ensure that the Local Authority is satisfied that it is appropriate to demolish them and not incorporate them within the proposal.

The design of any proposed dwellings should reflect the local vernacular detail in terms of scale, details, materials and layout. Developments of this type have the potential to have an adverse impact on the landscape character of the area. However, this is not something which the Historic Environment Team can advise on. We would therefore recommend that Development Management consider obtaining the opinion of an appropriately qualified Landscape professional.

- 4.1.9 **Highway – No objection.** This application, submitted by Danbank, seeks to promote part of the land within the SAMDev land allocation which is currently under examination. The land therefore forms part of the 2 residential development sites being promoted, the other which is the subject of applications 14/01982/OUT (subject of appeal) and 14/04701/OUT both submitted by Gladman.

In addition to the above Danbank submitted an initial application Ref 14/02630/FUL for the construction of an access only proposal onto the A53, showing a ghost island junction layout or otherwise known as a right turning lane junction arrangement. However at that time it was clear that a further outline application was to be submitted by Danbank to promote residential development of the site. In essence therefore the submission of the outline residential application 14/03782/OUT would to all intents and purposes supersede the stand alone access application 14/02630/FUL. However, in terms of the consideration of the later application the highway authority consider that the submitted information in both applications pertaining to highways is relevant.

This application therefore proposes up to 250 houses, with principal access onto the A53 as set out above, with access also via Hampton Drive which thereafter links to Adderley Road. The Masterplan drawing provides an indicative layout and alignment of a spine road through the land linking the A53 and Hampton Drive. The site therefore provides the ability to link the A53 to the town centre via Hampton Drive. Such a link however would need to be carefully designed to ensure that it would have the potential to become a 'rat run'. In essence therefore the infrastructure road layout would be to allow development traffic to gravitate to and from the A53 and town centre direction. In addition the Masterplan drawing shows potential linkage to the Gladman site to the west although both site abut one another and therefore there are a number of options in how the 2 parcels of land being promoted by Danbank and Gladman could link. The highway authority is aware also that Danbank have land ownership adjacent to Longslow Road which would allow access into the Gladman development land.

As in the case of the Gladman's application and to make the highway authority's position clear on the issue of access, only one access point onto the A53 will be permitted. The A53 forms an important route with strategic principal county highway network which was built to by-pass Market Drayton. Its core function therefore is to allow the movement of traffic and to minimise its disruption. Nevertheless as part of the SAMDev site coming forward to deliver housing in Market Drayton, as part of Shropshire Council's requirements to meet housing needs in the County, the highway authority recognise the importance of delivering this site with a requirement to construct a new access onto the A53.

Having regard to ongoing discussions between the principle land owners/developers promoting the SAMDev site, access off the A53 is key as clearly its position will fall in a particular land ownership. The interested parties therefore acknowledge access to developing the various parcels of land within the SAMDev site as key and pivotal in terms of costs and the ability to develop land without delay caused by other parties own development interests and timescales. On the basis that only a single point of access will be permitted onto the A53 the positioning on an agreed access point should not be used which would otherwise fetter the delivery of the SAMDev site as a comprehensive and coordinated development which provides alternative vehicular, pedestrian and cycling linkages to the town centre. In short, in agreeing to a new access onto the A53 the highway authority's stance is that any permission consent issued should only be granted so as to deliver the fundamental aims of a 'Masterplan' approach of the SAMDev site which provide connectivity as set out above.

As set out above, in terms of the development principle access onto the A53, the application shows the provision of a ghost island junction. This would allow the flow of traffic to be maintained along the A53 with right turning traffic waiting within a central stacking lane. This is the same arrangement as at the Bridge Road junction onto the A53.

The proposed junction type therefore fundamentally differs to the access solution in respect of the Gladman application, where a roundabout arrangement is shown. Whilst this meets the criteria in terms capacity it is not the preferred option of the Town Council who favour a roundabout junction arrangement. The highway authority's preference is a roundabout although it is recognised that this impacts

upon the movement of traffic along the A53 but is considered a safer junction option. Any design however would ultimately be subject to the usual Safety Audit checks to address any safety issues.

As in the case of the Gladman application, the highway authority have concerns regarding the delivery of the SAMDev site with difficulties with both Danbank and Gladman seemingly not able to coordinate or demonstrate the development of the SAMDev site in full and how this would be achieved.

On the basis however that the aspirations for the delivery of the SAMDev site can be conditioned via a suitable worded Grampian Style condition, the highway authority would raise no objection to the granting of outline consent in respect of the application currently before us.

In addition to the above the highway authority consider that the junction onto the A53 should be used as the principle construction access to the site and therefore the junction arrangement onto the A53 should be in place prior to dwellings being first occupied.

In respect of the delivery of public transport penetrating into and out of this site and the SAMDev site as a whole, it is difficult at this stage to estimate the level of funding required and over what period as this would be dependent upon the timescale for introducing a service into the site but also the time period where a bus were able to traffic through the site. As part of a Section 106 therefore this aspect would, at this stage, need to be suitably worded as a 'Heads of Terms' item.

4.1.10 Public Transport – No comments received at time of writing report

4.1.11 Rights of Way – Public Bridleway 9, Market Drayton runs through the site identified and will be affected by the proposed development. The route leaves Adderley Road at its eastern end and runs generally westerly through the site along Greenfields Lane to exit onto the A53 just beyond the western boundary of the site. The legally recorded line of the bridleway is shown on the plan attached. The route will need to be taken into consideration when processing this application as it will be directly affected where it is proposed to site a public square and may need diverting at this point onto an alternative line if it is not safe for walkers, cyclists and horse riders to use the route through the centre of the proposed square. It is also proposed to widen part of the bridleway where it enters the site off Hampton Drive and also to place bollards at this point. The applicants will need to seek agreement with the mapping and enforcement team for any changes to the surface of the bridleway and for the specification of the bollards which should be designed to reduce any possibility of injury to horses and riders.

In general the applicants should be mindful of the following criteria in respect of the Bridleway:-

' The right of way must remain open and available at all times and the public must be allowed to use the way without hindrance both during development and afterwards.

' Vehicular movements (i.e. works vehicles and private vehicles) must be arranged to ensure the safety of the public on the right of way at all times.

- ' Building materials, debris, etc must not be stored or deposited on the right of way.
- ' There must be no reduction of the width of the right of way.
- ' The alignment of the right of way must not be altered.
- ' The surface of the right of way must not be altered without prior consultation with this office; nor must it be damaged.
- ' No additional barriers such as gates or stiles may be added to any part of the right of way without authorisation.

4.1.12 **Waste Management** – It is vital new homes have adequate storage space to contain waste for a fortnightly collection (including separate storage space for compostable and source segregated recyclable material).

Also crucial is that they have regard for the large vehicles utilised for collecting waste and that the highway specification is suitable to facilitate the safe and efficient collection of waste. Any access roads, bridges or ramps need to be capable of supporting our larger vehicles which have a gross weight (i.e. vehicle plus load) of 32 tonnes and minimum single axle loading of 11 tonnes.

Would recommend that the developer look at the guidance that waste management have produced, which gives examples of best practice. This can be viewed here: <http://new.shropshire.gov.uk/media/102056/Supplementary-Planning-Guidance-domestic-waste-storage-and-collection.pdf>

4.1.13 **Ecology** – A bat mitigation strategy for loss of the bat roost and impact on foraging and commuting areas must be submitted in order to carry out the EPS 3 tests.

Further details of the water vole survey in the vicinity of the proposed access road crossing the brook are required.

Further information on reptiles is requested.

It is essential that the presence or otherwise of protected species, and the extent that they may be affected by the proposed development, is established before the planning permission is granted, otherwise all relevant material considerations may not have been addressed in making the decision (Government Circular 06/2005).

In the absence of this additional information (detailed below) I recommend refusal since it is not possible to conclude that the proposal will not cause an offence under the Conservation of Habitats and Species Regulations (2010).

Some initial conditions and informatives have been recommended.

Bats

Penny Anderson Associates (PAA) carried out inspections of all buildings within the application site boundary. A common pipistrelle and brown long-eared bat feeding roost was confirmed within building B4 constructed of brick and corrugated metal sheeting at the far eastern end of the site. PAA (2014) advise that an European Protected Species licence would be required before B4 could be demolished. Replacement bat roost features would need to be provided and

details should be provided now of the strategy for this.

In addition, roosting potential was identified in Buildings 9, 10, 11 and 12, however the 3 bat activity surveys undertaken found no bat emergence and therefore no confirmed roost is present. However as a precaution it is recommended that buildings 9 – 12 are demolished outside of the summer roosting period.

Three common lime trees on the southern section of the site were subject to emergence/re-entry surveys in 2013. These confirmed common pipistrelle bat roosts in Trees 1 and 2. These trees are outside of the current application boundary and therefore will not be affected by the proposals.

Bat activity surveys recorded key areas of bat activity along the railway cutting to the south and the tree-lined brook to the north. The Masterplan shows the brook course retained as open space with road access across it. Provided lighting is controlled this feature will remain as a bat flight corridor.

PAA (2014) recommend that an undeveloped buffer 10 – 30 m to the railway cutting is retained (partly for badger reasons). This would also protect the bat flight lines along the edge of the railway cutting. However the plans are unclear whether this buffer is allowed for in the layout plans. The Bat Mitigation Plan requested above should also provide details of the open space areas to be enhanced for bats.

Once an acceptable Bat Mitigation Plan has been submitted I will be able to carry out the EPS 3 tests under the Habitats Regulations. Also recommends conditions.

Great Crested Newts

The pond within the proposed site no longer holds standing water and is almost completely vegetated (PAA 2014), recommends an informative should be on the decision notice.

Reptiles

No information is provided in the Ecology Survey Report on the potential or evidence of reptiles on the site. Please can PAA confirm that there is no potential habitat across the site and no requirement for further survey or mitigation?

Water vole

PAA (2014) state that the brook was found to be unsuitable for water vole and no evidence was found. This brook links to the Shropshire Union Canal, where numerous water vole records exist. A road is intended to cross the brook therefore further details of the survey undertaken and the brook characteristics in this area are necessary in order to give confidence that no water voles could be affected or mitigation is required.

Nesting birds

Trees and hedgerows on the site have potential to support nesting birds and as such recommends an informative.

Badgers

PAA report the presence of a probable main badger sett, probable annex sett and

five outlier setts. The proposed development would result in a loss of grassland and hedgerow habitats likely to be used by the badger social group and the potential to isolate the setts from foraging areas.

To mitigate for the impact on badgers PAA (2014) state that a buffer zone is proposed with a minimum width of 30m where adjacent to a sett. Some planting and fencing works would be required within 30m of the setts. In addition a habitat corridor would be created. This will allow areas for the badgers to continue foraging. With these measures it not anticipated to be necessary for a licence from Natural England for the development.

The Masterplan indicates roads and houses within this buffer zone. As the layout plans stand I would interpret them as requiring a licence from Natural England. The habitat link to the stream is partly outside of the red line boundary. Please can a plan be provided of the proposed buffer areas and habitat corridor (which will need to be fenced off during construction and thereafter) which can be conditioned?

- 4.1.14 **Trees – No objection** in principle on the grounds of trees. Agrees with the findings of the submitted Tree Survey Report. The three A category groups are shown as retained (two are not within the development boundary - G42 and G28). A veteran Ash tree (T39) is described as requiring some structural work and would not appear to be suitable to be within a back garden and should be left in an undisturbed area based on its RPA (root protection area).

A full application will require a Method Statement with fencing specification and a Tree Protection Plan.

- 4.1.14 **Drainage – No objection** The drainage details, plan and calculations could be conditioned and submitted for approval at the reserved matters stage if outline planning permission were to be granted.

Whilst the FRA identifies Flood Zones 2 and 3 and demonstrates that proposed housing is outside of these zones, The FRA should be extended to include:

- ' Surface water flooding (from overland flows originating from both inside and outside the development site)
- ' Groundwater flooding
- ' Flooding from artificial drainage systems (from a public sewerage system, for example)
- ' Flooding due to infrastructure failure (from a blocked culvert, for example)

The outline parameters for the surface water run-off are acceptable, though calculations should be provided to verify the assumptions to ensure that all potential flood risk to the development has been addressed.

Full details, plan and calculations of the proposed SuDS should be submitted for approval. This should illustrate how the development will comply with the National Planning Policy Framework and the Technical Guidance to the National Planning Policy Framework for the particular flood zone / site area and Shropshire Council's Interim Guidance for Developer, and how SUDs will be incorporated into the scheme. As part of the SuDS, the applicant should consider employing measures

to reduce surface water. Furthermore information will be required on the proposed maintenance regime for any sustainable drainage system proposed, including details of who will take responsibility.

The site is identified as being at risk of groundwater flooding. The applicant should provide details of how groundwater will be managed. The level of water table should be determined if the use of infiltration techniques are being proposed.

Confirmation is required that the design has fulfilled the requirements of Shropshire Council's Surface Water Management: Interim Guidance for Developers paragraphs 7.10 to 7.12, where exceedance flows up to the 1 in 100 years plus climate change should not result in the surface water flooding of more vulnerable areas within the development site or contribute to surface water flooding of any area outside of the development site. To ensure that any such flows are managed on site. The discharge of any such flows across the adjacent land would not be permitted and would mean that the surface water drainage system is not being used.

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

- 4.1.15 **Severn Trent Water** – No comments received at time of writing report
- 4.1.16 **United Utilities** – No comments received at time of writing report
- 4.1.17 **Environment Agency** – Currently **object** to the proposed development as insufficient information has been submitted to allow an assessment of flood risk to be made.

Based on our 'indicative' Flood Map for Planning (Rivers and Sea), the proposed development site is partially located within Flood Zone 3 of the Sych Brook, which is classified as 'Main River' in this location.

In accordance with Table 1: Flood Zones within the Flood Risk Section of the National Planning Practice Guidance (NPPG), Flood Zone 3 is considered 'high' probability of fluvial flooding and comprises of land assessed as having a 1 in 100 year or greater annual probability of river flooding (>1%).

Whilst the northern area of the site is located within Flood Zones 2 and 3, the remainder of the site is located within Flood Zone 1; 'low probability' of fluvial flooding.

We have no modelled flood level data available for the Sych Brook in this location. The Flood Risk Assessment (FRA) by Integra Consulting Environmental (dated July 2014, ref. 2744) has undertaken a mapping exercise, using our 'indicative' Flood Map for Planning and a topographical survey of the site, to locate the proposed dwellings on land outside of the floodplain i.e. within Flood Zone 1. The proposed access to the north crosses the Sych Brook and Flood Zone 3 and 2 extents.

Development Proposals and the National Planning Policy Framework (NPPF):

The proposed development would be considered as 'more vulnerable' development; buildings used for dwelling houses, based on Table 2 of the NPPG. Development of this nature within this Flood Zone will be required to pass both the Sequential and Exception Test (in accordance with Table 3 of the NPPG).

Sequential Test (ST):

Paragraph 101 of the NPPF requires decision-makers to steer new development to areas at the lowest probability of flooding by applying a 'Sequential Test'. It states that "*Development should not be allocated or permitted if there are reasonably available sites appropriate for the proposed development in areas with a lower probability of flooding*". Further detail is provided in the NPPG. Only where there are no reasonably available sites in Flood Zones 1 or 2 should the suitability of sites in Flood Zone 3 be considered, taking into account the flood risk vulnerability of land uses and applying the ET if required (see Paragraph 102 of the NPPF).

Based on the scale and nature of the proposals which are affected by Flood Zone 3 (i.e. access road from A53), we would not make any bespoke comments on the ST, in this instance. Providing you are satisfied that the ST has been passed, then we can provide the following comments on the FRA.

FRA:

As noted above, the FRA has undertaken a mapping exercise to attempt to further define our Flood Map for Planning, in locating development within Flood Zone 1. However, insufficient information has been submitted to assess the level of flood risk to the proposed access road that crosses the floodplain, the access crossing and any potential impacts on the floodplain as a result of the proposals. In addition, the Sych Brook flows under the A53 on the northern boundary of the site. Therefore an assessment of blockage scenarios for the culvert structure under the A53 should also be undertaken in establishing the flood risk and considering safe development requirements, particularly for the dwellings proposed within the north-west corner of the site. Some local flood modelling of the watercourse outlines for Flood Zone 3b (1 in 25 Year), Zone 3a (1 in 100 year) plus climate change and Zone 2 (1 in 1000 year flood level) would assist in obtaining the above information and clarifying the flood risk.

Notwithstanding the above, in considering safe development requirements it is noted that the proposed dwellings to the south are located within Flood Zone 1 and that a safe pedestrian access route is available to the east via Greenfields Lane onto Adderley Road. The NPPG (ID 7, Paragraph 039) states that vehicular access should be designed "*...to allow the emergency services to safely reach the development during design flood conditions*". It is unclear whether the route along Greenfields Lane is suitable for vehicular access, in considering the availability of an emergency access for the site during a flood event. You may seek further clarification on this access route in consultation with your Emergency Planners/the Emergency Services.

Flood Defence Consent Informative – The Sych Brook is designated as "Main River" in this location. In accordance with the Water Resources Act 1991 and the

Land Drainage Byelaws, our prior written consent is required for any proposed works or structures in, under, over or within 8 metres of the top of the banks of the brook. The proposed access road crossing over the Sych Brook will require such consent. The proposed crossing should preferably be a clear span bridge, as this would have least impact on the Sych Brook. The bridge would need to be of sufficient size so that river flood levels are not affected for up to the 1% annual probability (1 in 100 year) event, including allowances for climate change and freeboard. Therefore local flood modelling would also be required to inform the design and suitability of the access crossing as part of a Flood Defence Consent application.

Surface Water Drainage – Given the low risk of fluvial flooding to the majority of the site (as outlined above), and the scale and nature of the proposed development, we would expect your Council's Flood and Water Management Team, as the Lead Local Flood Authority (LLFA), to lead on and approve the detailed surface water drainage design. We would also refer you to our local area 'Planning – FRA Guidance Note 3' for further information.

Contaminated Land

The NPPF supports the protection and enhancement of natural and local environments with planning decisions to ensure that new development is appropriate for its location (paragraphs 109 and 120).

A Phase 1 Geo-environmental Site Investigation report undertaken by Integra Consulting Environmental (dated July 2014, ref. 2744) has been submitted as part of the planning application. The site is located on a secondary (mudstone) and principal aquifer (sandstone and conglomerate). Based on the information submitted there are a number of potentially contaminating activities including spraying, vehicle manufacture, storage, repair, light engineering, etc, that may have resulted in ground contamination, particularly within the south-eastern area of the site. There may also be structures such as underground storage tanks, interceptors, etc, that are yet to be identified. We have previously commented (planning application 13/02273/OUT) on the need for a detailed site investigation scheme to better define the ground conditions/contamination on site to inform remediation and validation requirements. The scope of site investigation proposes a detailed scheme which could then be secured through conditions as part of any permission granted. Subject to receipt of an updated FRA that addresses our flood risk comments (above), we would wish to comment further on the scope of SI proposed within the Phase 1 report and recommend conditions where appropriate. We would request that the scope of SI detailed within section 7 of the report is illustrated on a plan of the site.

Our comments relate to controlled waters (ground and surface waters). We would recommend that you seek the views of your Public Protection team in relation to human health matters.

Summary

At this time, insufficient information has been submitted to assess the flood risk to the proposed development, specifically for the proposed access crossing and proposed dwellings to the north of the site. The application may therefore be considered contrary to the NPPF and Policy CS18 (Sustainable Water

Management) of your Council's Core Strategy and may be refused on this basis. The applicant should submit a more detailed assessment of flood risk to inform the site layout and safe development requirements. Upon receipt of this information we will be able to comment further on the proposed development.

- 4.1.18 **Public Protection – No objection** Having considered the proposed location of dwellings it is noted that a small number of residential dwellings are proposed within close proximity of the ring road (A53). As a result the impact from noise should be considered at these locations. As a result would recommend a condition is placed should this application be granted permission to require noise assessment to be undertaken and submitted prior to the final layout of the site being designed.

After considering the air quality assessment report has no further comments on this application. Air Quality modelled and not expected to be any issues as a result.

4.2 **Public Comments**

- 4.2.1 14 letters of representation have been received raising the following concerns:

- Lack of site notice
- Sufficient infill and brownfield sites available
- Peaceful and safe neighbourhood would be spoilt
- Loss of green space and recreational land referred to as sports field
- No commitment to relocate sports facilities
- Loss of agricultural land
- Lack of allotments
- Schools, medical centre and dentist are at capacity
- Lack of job opportunities
- Connecting to Croft Way would make it a free for all
- Use of Hampton Drive would encroach on private land
- Use of Hampton Drive and Tudor Close is dangerous, would damage the surface and are not wide enough
- Increase in traffic and associated noise
- Fields naturally pond and no flood risk assessment for this area
- Insufficient capacity in foul sewers

- 4.2.2 1 letter of support has been received on the basis that the application will bring benefits to the town to make the town and services more sustainable.

5.0 **THE MAIN ISSUES**

- Policy & principle of development
- Is the site sustainable?
- Economic considerations
- Environmental considerations
- Social considerations
- Layout principles and impact on neighbours amenity
- Highways, access, parking and rights of way
- Ecology and trees
- Flood risk

- Drainage
- Other matters

6.0 OFFICER APPRAISAL

6.1 Policy & principle of development

- 6.1.1 Under section 38(6) of the Planning and Compulsory Purchase Act 2004, all planning applications must be determined in accordance with the adopted development plan unless material considerations indicate otherwise. Since the adoption of the Councils Core Strategy the National Planning Policy Framework (NPPF) has been published and is a material consideration that needs to be given weight in the determination of planning applications. The NPPF advises that proposed development that accords with an up-to-date Local Plan should be approved and proposed development that conflicts should be refused unless other material considerations indicate otherwise. The NPPF constitutes guidance for local planning authorities as a material consideration to be given significant weight in determining applications.
- 6.1.2 The development plan for consideration of this application is the Shropshire Core Strategy which sets Market Drayton as one of the market towns in the north east of Shropshire and as therefore providing foci for balanced housing and employment development. The saved North Shropshire Local Plan (NSLP) is also relevant and provides a development boundary for Market Drayton and a positive policy for housing development within the boundary. The forthcoming SAMDev is also a material consideration, however given that it has yet to be tested at examination officers advise that it can only be given limited weight. What weight can be given to the Core Strategy and the NSLP depends on whether the Council has a 5 year supply of housing land, as required by the NPPF.
- 6.1.3 It is acknowledged that the housing land supply is constantly changing. In September 2013 the housing land supply in Shropshire fell below the 5 year requirement. This has now been updated following the submission of the SAMDev Final Plan to the Planning Inspectorate and the Council considers it can now demonstrate a 5 years supply. As such the Core Strategy can be given weight in the determination of the application and it is a matter of balancing the benefits and the harm of the development. If the Council were not able to identify a 5 year supply then the harm of the development would have to be significant and demonstrable to outweigh the benefits of new housing, however with a 5 year supply the Council is still required to undertake a planning balance and given that we have only just over 5 years supply the fact that a development is providing new housing is still a significant material consideration.
- 6.1.4 It is also accepted that the site is outside the development boundary previously set within the North Shropshire Local Plan and as such the application has been advertised as a departure from the adopted local plan. However, firstly, this policy can not now be given weight due to its age and furthermore the site is being promoted as part of the preferred option site within the Site Allocations and Management of Development (SAMDev). The site has progressed through all the stages of the SAMDev; and remains in the pre-submission draft sent to the Planning Inspector. Although the SAMDev has limited weight, as it has not yet been through the public examination stage and is not adopted, to refuse an application on a site which is being promoted in the SAMDev would be

unreasonable as the site would be likely to gain consent following adoption of the SAMDev. The key consideration for this application is determining whether it is sustainable development against the criteria in the NPPF.

- 6.1.5 As previously noted Market Drayton is identified in the Core Strategy and the SAMDev as a market town and a key focus for development. Policy CS3 of the Core Strategy notes that Market Drayton is proposed to have “substantial development that balances business development with housing development and enhances the town’s infrastructure and facilities and its role as a centre for food production.” The fact that the application aims to deliver this policy should also be given weight in the consideration of the application. Officers advice is currently that SAMDev should be given limited weight due to outstanding unresolved objections which have not yet been tested and will not be tested until the examination in public. However, the proposed site does form part of an allocation which has been through all stages of the SAMDev assessment and against which there are no outstanding objections. The issue in Market Drayton is not whether this site should be allocated but whether additional sites, including this one, should be provided so as to closer meet the housing requirements for the town. As such it could be argued that more than limited weight could be given to the SAMDev with regards to Market Drayton.
- 6.1.6 The submitted SAMDev promotes Market Drayton as proving a focus for development in the north eastern part of the county with a housing guideline of around 1200 dwellings and 16 hectares of employment land. New housing development will be delivered through the allocation of greenfield sites together with a windfall allowance. The current application forms part of the greenfield allocation and the policy acknowledges that whilst the sites may be developed independently, they must demonstrate how they work together to deliver a coordinated residential scheme for the town. The infrastructure required to support this includes, appropriate access, which may include a new access off the A53, financial contributions towards the expansion of existing primary school provision and enhancement of the Greenfields sports facility, including potential relocation of the existing site.
- 6.1.7 The whole of the allocation is formed from three sites, two identified as ‘MD030’ and one identified as ‘MD010 and MD028’. All three have guidelines of the development being part of a coordinated scheme including access improvements, cycle and pedestrian links, provision of open space and a landscaped buffer along the A53. Overall the three sites together will provide an allocation of 400 houses, it is therefore acknowledged by officers that there is a shortfall between the housing within the allocation and the housing target for the town. As such, subject to an appropriate layout and no unacceptable adverse impacts it would be appropriate to consider an increase in the overall housing numbers across the SAMDev allocation. As such the proposal for approximately 250 houses would not be objected to in principle.
- 6.1.8 However the key issue is how this planning application, separate to the rest of the SAMDev allocation, will work with the surrounding sites to deliver the coordinated scheme. The coordination of highways matters including access, accessibility through the site for vehicles, pedestrians and cyclists and access for public transport; surface water drainage matters in providing the ability for the whole of

the SAMDev allocation to be served by a comprehensive surface water drainage system; and to ensure that public open space is provided in a useable format and doesn't result in small pockets of space scattered across the area and to ensure that the mitigation for ecology provides connectivity and corridors to enhance the existing environmental network. These issues will all be considered in greater detail in the report, however it is an area of concern as officers would not wish to see the site developed in isolation.

- 6.1.9 Shropshire Core Strategy policy CS6, amongst a range of considerations, requires 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. Policy CS7 states that a sustainable pattern of development requires the maintenance and improvement of integrated, attractive, safe and reliable communication and transport infrastructure and services. And policy CS9 states that development that provides additional dwellings or employment premises will help deliver more sustainable communities by making contributions to local infrastructure in proportion to its scale and the sustainability of its location.
- 6.1.10 Policies MD2, MD3 and MD8 of the SAMDev have also been submitted for consideration by the planning inspector and as such can be given some, but limited, weight. Policy MD3 seeks to ensure sustainable design through seeking to promote community led plans, town or village design statements, neighbourhood plans and place plans with regard to design, appearance and how a place functions. The policy also seeks to ensure that development reflects local form and function, design and materials, historic and natural assets; incorporates sustainable drainage, landscaping and open space; considers the existing infrastructure of the settlement and any need for new or improved infrastructure. Policy MD3 provides additional support for MD2 and for the development guidelines set out for each allocation. Policy MD8 requires development to ensure sufficient existing infrastructure capacity is available and also promotes the development of new infrastructure.
- 6.1.11 It is also appropriate to consider the NPPF as a whole in assessing the sustainability of this proposal. Paragraph 14 of the NPPF states that within the context of the 'presumption in favour' development should be approved unless any adverse impacts of doing so would significantly and demonstrably outweighs the benefits. The planning balance which needs to be considered is balancing the benefit of the provision of new housing in close proximity to the sustainable market town against any harm.
- 6.2 **Is the site sustainable?**
- 6.2.1 Paragraph 7 of the NPPF sets out the three dimensions to sustainable development and provides an overview of what is considered to be the economic, social and environmental roles of the planning system. For a site to be considered to be sustainable development the three dimensions need to all be provided and the presumption in favour of sustainable development advises that, unless there are material considerations which outweigh the benefits, consent should be granted.
- 6.2.2 Within the planning statement submitted in support of the application the agent

considers the issue of sustainability and has considered the proposal against all three parts of sustainability in the NPPF.

6.2.3 Local objectors have questioned the need for the development proposed based on infill and brownfield land being available; the loss of green space and recreation land; the lack of job opportunities, leisure or entertainment facilities and the lack of allotments. These concerns are noted, however the application forms part of the wider allocation in the SAMDev for approximately 400 houses which is expected over the lifetime of the SAMDev. In response to the brownfield question officers are not aware of sufficient brownfield land available around Market Drayton which could accommodate a similar scale of development. The majority of developed land in the town remains in active use. Furthermore the housing target in Market Drayton is greater than the proposed allocation and relies on windfall development which is most likely to come from brownfield sites should they become available.

6.3 **Economic considerations?**

6.3.1 The planning statement notes that the development would boost housing supply, local economy, new homes bonus, CIL, construction jobs and increase local spending. It is acknowledged by officers that the construction of new housing in, or on the edge of, Market Drayton would support the businesses, facilities and services within the town and residential areas and also acknowledge the other benefits noted by the agent.

6.3.2 Concerns have been raised about the lack of jobs available in the town however this is not a site specific objection to the development. Officers do not have any evidence that there are not job opportunities in the town and new opportunities being made available. The town has one of the County's largest employers in Muller's which has recently gained consent for a new production facility which once built will create additional employment. In addition there is consent for a new food store in the town, recent consents for other new businesses including the relocation of Hales Sawmills and employment land available and allocated within the SAMDev. Officers do not consider that this matter is one which results in significant and demonstrable harm which would outweigh the benefits of new housing.

6.3.3 The Planning Statement accepts that the proposed housing development of the application site will result in the loss of existing employment buildings but the agent has confirmed that this business intends to move to larger and more modern premises and that the economic benefits of construction jobs far outweigh the loss of the employment land. The removal of this employer from an area close to existing residential properties and the sports facilities is also considered to be positive.

6.3.4 The development will also be liable for payment of the Community Infrastructure Levy (CIL) which for this site would be at the £40 per square metre rate and be used in accordance with policy CS9 to support local infrastructure requirements. This money can be used to assist in resolving the issues raised within the local place plan. The CIL fund would also be used to fund the improvements required at the primary school to accommodate the predicted additional pupil numbers noted by the Council Learning and Skills team. It is not considered necessary or reasonable to request an additional contribution beyond the CIL payment for

education given that the place plan identifies education as a priority which CIL will be used for.

6.4 **Social considerations?**

- 6.4.1 The agent has suggested that the development will provide social benefits in providing a mix of housing, open space, cycle routes and high design quality. However the development also has social impacts. The scale of the proposed development would increase pressure on local facilities and services such as the school and doctors as noted by the objectors. However, it also provides the opportunity for social benefits such the contribution towards community infrastructure levy (CIL). For the adjacent site the Council Learning and Skills Team has commented that they would expect the development of 162 dwellings to yield 30 primary school pupils (rounded) as such the development on this site of 250 houses could be around 37. Longlands Primary School, one of the two primary school catchments in the town, has a small amount of unfilled places at present. However, overall development in the plan period will take numbers significantly over capacity. Therefore, to keep things simple, and as this is one of the more significant housing investment sites in the town, to treat this application in isolation, fractionally over 30 pupils at a DfE cost of £11,767 translates into £355,412 to provide the places.
- 6.4.2 In addition the residential development of the land will also enable the provision of new public open spaces and improved access to Greenfields recreation facilities. These are all social benefits. The details of the size of the open space and the footpaths would need to form part of the reserved matters applications and would need to show how the open space is coordinated across the whole of the proposed sites allocated in the SAMDev; would need to comply with the interim planning guidance on open space and confirmation would also be required of who is to be responsible for maintaining these facilities. In order to achieve coordinated open space provision rather than small pockets of open space which is neither manageable or of significant use to the community, officers advice is that a condition is imposed on the outline to require further details to be submitted.
- 6.4.3 As advised by the Council Affordable Housing Officer the scheme would be required to contribute towards affordable housing in accordance with Policy CS11 of the adopted Core Strategy. The level of contribution would need to accord with the requirements of the SPD Type and Affordability of Housing and at the prevailing housing target rate at the time of a full application or a reserved matters application. The current prevailing target rate for affordable housing came into force on the 1st September 2013 and in this area is 10%, which would provide 16 affordable homes on site; however this will be reviewed in line with the target rate at the time when full applications or reserved matters are submitted. It is acknowledged that the reserved matters may come in a number of different applications and therefore each would need to provide the level of affordable housing required at the time of submission. The assumed tenure split of the affordable homes is currently 70% for affordable rent and 30% for low cost home ownership. At this outline stage the principle of affordable housing as part of the wider development of the site is acceptable. The means to secure affordable housing would need to be via a section 106 legal agreement to ensure affordability in perpetuity and also to ensure the occupation is in accordance with the Council's adopted policy.

6.5 **Environmental considerations?**

6.5.1 This application has not given a detailed assessment of the quality of the agricultural land. However, given the adjacent site is predominately grade 2 it is considered most likely that this site is grade 2 or below. As such it is considered to be best and most versatile agricultural land and the development of this is an acknowledged harm. The National Planning Policy guides local authorities to consider the economic and other benefits of agricultural land and, where significant development is necessary, to use lower quality land in preference to higher quality land. Although the development of this site will result in the loss of some higher quality land the site has been considered as the most appropriate land to provide the scale of housing required in Market Drayton, without extending beyond the A53, for the forthcoming plan period. As noted on other recent applications the development of higher grade agricultural land can not be avoided as there is insufficient brownfield or lower grade land available for the scale of development required for the County as a whole. Furthermore, it is officers opinion that the economic benefits of the proposed development outweigh the economic benefits of retaining the land in agricultural use. The need for retaining agricultural land for food production does not outweigh the presumption in favour of sustainable development. Overall, although the loss of agricultural land is a harm resulting from the development this harm is not considered to outweigh the benefits.

6.5.2 However, as noted previously in the report, part of the site is previously developed land, with part of that land still being in active commercial use. This commercial use is one which is not ideal within a residential environment given the potential for noise, dust and fumes, the existing buildings are large and visually intrusive and the other part of the previously developed land is currently an area of hard standing. The proposed housing development provides an opportunity for betterment by removing these two uses and the potential impact on amenities and traffic and reducing the amount of hard standing on these two parts of the wider site. This benefit also needs to be taken into account in the planning balance.

6.5.3 The main consideration of environmental impact is dependent on the layout, scale and design and the impacts on highways, trees, ecology and drainage. These matters are considered in detail in the following sections.

6.6 **Layout, scale and design**

6.6.1 Policy CS6 'Sustainable Design and Development Principles' of the Shropshire Core Strategy requires development to protect and conserve the built environment and be appropriate in scale, density, pattern and design taking into account the local context and character. Policy CS17 seeks to identify, protect, enhance and expand Shropshire's environmental assets, aiming to prevent development which adversely affects visual values or which does not contribute to local distinctiveness. Part 7 of the NPPF 'Requiring Good Design' indicates that great importance is given to design of the built environment and paragraph 58 sets out expectations for new development including ensuring that development adds to the overall quality of an area, establishes a strong sense of place and ensuring developments are visually attractive and respond to local character.

6.6.2 A master plan has been submitted with the application which shows an indicative

layout for the site showing a potential layout for the estate road running from the proposed access off the A53, through the site to Hampton Drive with cul-de-sacs and link roads to the adjacent land leading off this main estate road. Although the plan shows an indicative layout of housing and roads the precise layout would be a matter for consideration under an application for approval of reserved matters. In principle the construction of housing on this site is supported as it is being promoted within the SAMDev the layout is not for approval at this time and officers consider could be improved to provide greater variety in the streets, reduce the 'over engineered' feel of all of some of the cul-de-sacs and provide areas of different character or layout. Furthermore it is officers opinion that the proposed "square" is not wholly necessary, appropriately designed or, given its location on the main estate road question whether it would function as a square or as a large traffic junction and furthermore that the housing proposed along the A53 may be too close to this major road.

- 6.6.3 However, the indicative layout does show that the site can be developed with respect to the character and layout of the existing housing, protect the area around the watercourse and railway line but that further work is required on the layout to take into account the ecology issues raised by the Council Ecologist and also the view of the development from the A53 and the amenities of the future residents along this road. In terms of showing coordinated development the master plan shows a single road connecting to the adjacent land to the west and a single road to the land to the east. As with the other application currently under consideration it is officers opinion that further work is required to ensure that the two sites work together, it is noted that at the time of writing this report the SAMDev allocation has been submitted as two separate planning applications. There is a potential for two independently, isolated, sites to be developed without any form of connection or coordination which would be contrary to the forthcoming SAMDev and would be harmful to the overall development of Market Drayton, would be counter to community cohesion and would not amount to good planning. A condition is therefore recommended to ensure that the two sites work together.
- 6.6.4 In addition to the plan the application has been submitted with a design and access statement (D&A) and a planning statement. The D&A suggests that the indicative layout will provide attractive frontages, overlook open spaces, have tree lined roads, defensible private spaces and parking and that the dwellings will be built of red brick and render. It also advises that the proposal is to retain existing landscape features and expand them. The planning statement comments that the development will provide a mix of houses, detached, semi-detached and mews from single storey up to two and a half storey at a density of approximately 22 per hectare with 2.8 hectares of open space. Although it is acknowledged that once outline consent is granted the land will be sold to developer(s) it is also possible to condition that the future development of the site is done in accordance with the D&A.
- 6.6.5 The information provided in both the D&A and the planning statement is of some, but limited, use. However, as noted previously the application site is both a site being promoted in the SAMDev and is also the only remaining site which can accommodate the level of housing required for the town within the constraints of the Tern Valley to the south of the town and the A53 to the north. The final layout of the site will be considered at the reserved matters stage and, in principle, the

site is considered capable of accommodating new housing and is part of the wider site for accommodating the housing requirements of the town.

6.7 **Impact on residential amenity**

6.7.1 Policy CS6 'Sustainable Design and Development Principles' of the Shropshire Core Strategy indicates that development should safeguard the residential and local amenity. As an outline application with all matters reserved for later approval it is not possible to fully consider the impact on the amenities of neighbouring residents in terms of overlooking or loss of light as the layout of the proposed housing is not yet known. Objections have raised concern about the impact on the existing peaceful and safe neighbourhood and the increase in traffic. This latter matter is considered later in the report.

6.7.2 It is acknowledged that there are existing residential properties around the application site. There are a few properties on Greenfields Lane which currently have the outlook of sports facilities and agricultural land; houses on Hampton Drive and Tudor Close back onto Greenfields Lane and as such would back onto the site; to the west Croft Way and Ridings Close properties lie side on and rear facing towards the site and on the opposite side of the disused railway there are properties off Prospect Road, Mount Crescent and Ashbourne Drive. These properties on the opposite side of the railway would be a sufficient distance from any proposed housing to not be affected to an unacceptable extent. The other properties noted off Greenfields Lane and the estates to the east and west would need to be carefully considered at the time of submission of the reserved matters to ensure that appropriate separation distances were provided as several of these properties have first floor windows overlooking the site and therefore the potential to be overlooked. The main impact will be on the existing properties on Greenfields Lane and officers consider that the development of the site could be laid out with sufficient distance between new and existing properties to ensure that the impact is not unacceptable. It is accepted that the development of the site will alter the outlook from these properties and will also alter the noise levels and light levels. However as a proposed residential development adjacent to residential development the impact would not be beyond what could reasonably be expected in similar situations. The land is not protected and the town needs to grow and provide new housing. As noted previously within the report this is part of a wider site which provides the only land capable of providing the scale of additional new housing required in the town without extending beyond the bypass. Officers consider that the development of the site could be achieved without substantial adverse impact on the amenities of the existing properties and would not result in overlooking or loss of light.

6.7.3 An air quality assessment has also been submitted during the consideration of the application which has considered the existing air quality; an assessment of suitability for residential use in relation to transport related emissions and takes into account recorded background emissions, including those produced by the Council, and traffic levels. The report provides an analysis of the existing conditions and the potential conditions at 2019 both with and without the development and considers the potential impact on existing sensitive receptors in the area and the proposed new housing. The report concludes that, from the assessment undertaken by the consultant, that the emissions predicted would not exceed air quality objectives and that traffic emissions would be negligible.

- 6.7.4 The Council Public Protection Officer has commented on the close proximity of some of the dwellings as shown on the indicative plan advising that there are close to the A53 and may therefore be affected by noise. It is advised that a noise survey be undertaken and submitted for consideration by the Council prior to the confirmation of the final layout of the scheme. However at this time this would not affect the outline application currently under consideration. The layout is for indicative purposes only and as such the area closest to the A53 may not be developed as part of the reserved matters application, following consideration of the noise assessment and the visual impact of these houses.
- 6.7.5 One objection has been received commenting that the use of Hampton Drive would encroach on private land, however this has not been supported by any evidence of ownership. The application proposes using the existing width of Hampton Drive, including retaining the narrow section where it currently joins Greenfields Lane, but that the new estate road beyond this narrow section would widen back out to 6m wide. As such there is no proposed widening of the existing Hampton Drive and none of the section to be used is a private road or driveway.
- 6.7.6 As such it is considered by officers that the information provided to date, in the form of an outline planning application, master plan and the technical reports have shown that it would be possible to develop the application site without adversely affecting the amenities of the existing residents that are within and around the site in accordance with policy CS6 and the requirements of the Type and Affordability of Housing SPD.
- 6.8 **Highways, access, parking and rights of way**
- 6.8.1 Paragraph 32 of the NPPF advises that developments that generate significant amounts of traffic should be supported by a Transport Statement and promote sustainable modes of travel, safe accesses and improvements to existing transport networks. Core Strategy Policy CS6 states that proposals likely to generate significant levels of traffic should be located in accessible locations where opportunities for walking, cycling and use of public transport can be maximised and the need for car based travel to be reduced.
- 6.8.2 A new access is proposed off the A53 in the form of a new ghost island priority junction. A separate application has been submitted to consider this access separate from the current outline application, but it also forms part of the current application. In addition the proposal is to extend Hampton Drive into the site and amend Greenfields Lane by widening the section to the sports pitches and closing off the eastern section with raising bollards. This would prevent Greenfields Lane from being used by any vehicle other than those with existing rights. The two proposed vehicular access points are intended to serve the application development, the surrounding land being put forward for allocation in the SAMDev and the sports facilities off Greenfields Lane, either as a sports facility or following redevelopment.
- 6.8.3 Both a Transport Assessment and Travel Plan have been submitted with the application. The TA notes that the A53 is 7.4m wide, de-restricted and therefore 60mph with no footway and mainly unlit, except at junctions. The existing roundabouts at the Gingerbread Man and Mullers are 2.8km apart and there are

three existing junctions between the roundabouts. The existing junctions which serve Bridge Road and New Street Lane are both ghost priority junctions and the junction of Bridge Road, which previously served a small number of dwellings was re-aligned for the recent housing development. Rush Lane also joins the A53 but is a restricted bridleway, single width and gated part way down.

- 6.8.4 The TA considers the impact of the proposed development on the access proposed; the junction of Adderley Road and Hampton Drive; the junction of the A53 and Bridge Road and the junction of the A529 and Prospect Road. It also predicts traffic flows and shows evidence of speed recordings undertaken and details accident data as only showing a small number of accidents in the immediate area. The A53 and A529 were shown to be operating significantly below capacity during the consideration of the proposed Sainsbury food store and would continue to do so following the development of the food store. The TA notes that Hampton Drive provides access off the A529 to the existing housing estate of 193 dwellings, is 6m wide and also connects to Greenfields Lane, which itself joins the A529, is single a carriageway serving a small number of dwellings and sports facilities with no footway or lighting.
- 6.8.5 The applicant's highway consultant considers that all routes are operating well within capacity with no significant delay and only minimal queuing at junctions. With regard to Hampton Drive, which residents have raised concerns about, the consultant notes that there was no queuing observed to enter Hampton Drive and a small number of vehicles queuing to exit during weekday morning peak hour but that this cleared quickly. With regard to the A53 the consultant notes the high proportion of HGV traffic and therefore considers that the primary function for this road is to accommodate through traffic with as little disruption as possible and that traffic speeds are not an issue. It is therefore the applicant's consultant's opinion that there is no justification for a roundabout on the A53 and that a ghost priority junction, with a right turn lane, is the most appropriate junction in this location. The new road would be 6m wide with at least 190m visibility in both directions, and designed to Design Manual for Roads and Bridges standard.
- 6.8.6 Pedestrian and cycle access to the town is also noted in the report and confirms that there are existing footways from Hampton Drive to the town centre and existing on-road based advisory cycle routes. The report also notes the distance from the site to the infant school and nursery school is 1.2km, the primary school is 1.5km and the high school is 1.5km, the large food store is 800m, health facilities 800m and the town centre 900m from the site. The closest bus stop is 550m and the bus station is 800m away with regular bus services around the town and to other local towns. The consultant therefore concludes that, in their opinion, the site is within walking and cycling distance of the services and facilities and that these, and the bus facilities, represent a reasonable alternative to the use of the car.
- 6.8.7 The TA has also considered the potential impact on existing and future residents from the proposal to close the end of Greenfields Lane from the use of Hampton Drive to access the sports facilities. Although the sports facilities could also, in the long term, be accessed from the new access off the A53, the closing of the end of Greenfields Lane will divert traffic through Hampton Drive. The report details the times at which the facilities are used and notes that they are not currently used

week day morning or evening peak hours. As such the consultant considers that Hampton Drive can accommodate this traffic in addition to the proposed housing without any conflict at the peak times and that weekend traffic would be no worse than peak hour traffic.

- 6.8.8 In considering the application and the submitted information the Council Highway Officer has advised that the principle of developing the site is acceptable and so is the principle of a point of access, in the form of a ghost propriety junction, off the A53. However, as with the other application off Rush Lane the Highway Officer is clear in that only one access point onto the A53 should be permitted as more than one access off the A53 would be harmful to highway safety and traffic flows given that the A53 is primarily a bypass around the outside of Market Drayton. Whichever access is granted consent will need to deliver the aims of the SAMDev and provide connectivity to the town.
- 6.8.9 The Highway Officer has advised that the ghost priority junction, the same as Bridge Road, with a central stacking land for right turning traffic is technically acceptable but notes that this is not the preferred junction form of either the Town Council or the Highway Authority. The preference is for a roundabout, although it is recognised that this impacts upon the movement of traffic on the A53 a roundabout is considered to be a safer junction option. The roundabout is being promoted as the preferred option for the SAMDev allocation given the size of the development and its links to the town and sports facilities. As such it is a matter for members, on advice from officers, to consider which of the two accesses is the most appropriate. Officers advise that the proposal within the application to which this report relates is a ghost priority junction and, although it will provide a safe means of access, the alternative being proposed in application 14/04701/OUT provides a safer form of access and therefore the least level of risk to highway safety and free flow of traffic.
- 6.8.10 However, as with the alternative proposal (14/04701/OUT) the key issue is the matter of linking the proposed access from the A53, through the application site, to the surrounding allocated land, which if the roundabout is approved therefore includes the land associated with this planning application. The proposed SAMDev allocation advises that the sites may be developed independently, however they must demonstrate how they work together to deliver a coordinated residential scheme for the town including appropriate access and access improvements, cycle and pedestrian links towards the town centre. This application can be approved without an access off the A53 as some housing can be developed from Hampton Drive, however it is essential to ensure that, for long term accessibility and safe traffic movements that this site is linked to the roundabout being proposed by Gladman.
- 6.8.11 On the converse, if the ghost priority junction being proposed as part of this application is considered to be more suitable by members, the roundabout being proposed by Gladman should be refused and this site will need to provide access to the Gladman site. To ensure these works and connectivity is provided a condition is being proposed by officers which has been worked up following legal advice and investigation of similar worded conditions on Planning Inspector's decisions.

- 6.8.12 Although concerns have been raised locally about the use of Hampton Drive the Highway Officer has noted the necessity for a secondary access off Hampton Drive to ensure that the development is not served purely from one single point of access off the A52. It will be necessary to ensure that the design of the estate road through the site does not have the potential to become a 'rat run' and also that there is long term potential for future access to Longslow Road through the site being promoted by Gladman developments.
- 6.8.13 In respect of the delivery of public transport penetrating into and out of this site and the SAMDev site as a whole, it is difficult at this stage to estimate the level of funding required and over what period as this would be dependent upon the timescale for introducing a service into the site but also the time period where a bus were able to travel through the site. At this stage, without further detail on the layout of the site in relation to the adjacent land it is not possible to fully understand the cost of bus enhancements. As part of a Section 106 therefore this aspect would, at this stage, need to be suitably worded.
- 6.8.14 In conclusion the principle of a ghost priority junction onto the A53 is acceptable, however only one new access should be permitted off the A53 and the Council preference for highway safety reasons is a roundabout. Notwithstanding this the roundabout being promoted by the adjacent site can not be the only means of access to the housing developed on the wider SAMDev site and a secondary access off Hampton Drive is promoted by the Council Highway Officer as a safe means of access. A condition is recommended to ensure that, amongst other things, the development of this site works with the development of the surrounding land to provide a coordinated and comprehensive development. The level of traffic movements from the development is not considered to result in a severe impact and the design specifications of the roundabout and internal estate roads can be controlled by condition. As such, the principle of the development is acceptable.
- 6.9 **Ecology and trees**
- 6.9.1 The NPPF and policy CS17 of the Shropshire Core Strategy require consideration to be given to the impact of the proposed development on the natural environment. This particularly relates to the impact on statutorily protected species and habitats and existing trees and landscaping. An ecology assessment and survey have been undertaken and submitted with the current application and this was considered by the Council's Ecologist and Tree Officer.
- 6.9.2 The assessment notes the position of the site, that the nearest County wildlife site is approximately 2km from the site at the River Tern and the different areas within the site including the watercourse, employment uses, yard, agricultural buildings and farm land. The desk based survey results show records of great crested newts, snakes, invertebrates and water vole the survey results found no evidence of these species. Furthermore records show evidence of bird species in the area including barn owl. The on site survey work recorded the presence of bat roosts in two of the lime trees and one building, the presence of a defunct pond and varying quality of grassland and hedges.
- 6.9.3 The applicant's ecologist has advised that, in their opinion, Sych Brook is not suitable for water vole, no sign of the species were observed and the nearest

recorded sighting is 1.5km to the east, on the canal. No potential for reptiles (including great crested newts) was identified and that there is no suitable habitat present. With regard to birds the report notes the species which have been recorded and also that the site provides suitable nesting habitat. Overall the report notes that the site functions for a range of protected species and wildlife generally, supports foraging and commuting for bats, that the majority of the buildings within the site do not support bat roosts but buildings and trees outside of the site do. As such the report recommends controlling lighting; demolition of buildings outside of bat roosting times as a precautionary measure; works to the hedges and trees outside of bird nesting season; the provision of a wildlife buffer along the railway cutting and Sych Brook; planting of native or fruit trees; the provision of bat boxes; and a European Protected Species Licence for the demolition of the building containing the bat roost.

- 6.9.4 A separate, confidential, badger report has also been submitted which identifies the potential presence of badgers near to the site, survey work undertaken, the potential impact of the development on badgers and their setts and the need for a pre-commencement site check and mitigation. Due to their protected nature no further information can be provided, however members should be assured that the Council Ecologist has had sight of this confidential report and is aware of the presence of the species.
- 6.9.5 In considering the information the Council Ecologist has requested additional information in respect to bat mitigation due to the need for the site to have a European Protected Species Licence and further information on water voles and reptiles. The Council Ecologist has also advised that several of the existing buildings should only be demolished outside of bat summer roosting period, control of lighting to protect flight corridors, provision of a 10-30m buffer along the railway cutting and the provision of an ecology corridor though also notes that the indicative layout plan shows development within the buffer and as such should be amended.
- 6.9.6 The applicant has submitted an updated ecology report aims to overcome the concerns raised by the Council Ecologist and this has been sent to the Council Ecologist for comment. At the time of writing the report the Ecologist response had not been received and it is hoped that an update can be provided to members at the meeting.
- 6.9.7 An Arboricultural Assessment has been submitted with the application which advises that of 13 individual and 44 groups of trees 1 tree and 3 groups are category A, 5 trees and 4 groups are category B and the remaining are category C. The majority are Hawthorn groups which individually are considered by the applicant's consultant as low or average quality but form part of a wider landscape value. There is 1 large Ash near the southern boundary of the site which has high value but also has structural defects and the consultant has recommended crown pruning. The most significant trees are along the railway embankment a line of lime trees within the playing field and a line of lime trees within an existing garden and as such are all outside of the application site. The report concludes advising the retention of the category A and B trees, that some of the C category trees could be removed and replaced with new planting subject to a detailed scheme and that protective fencing should be used around retained trees.

- 6.9.8 The Council Tree Officer has advised that they agree with the findings of the submitted Tree Survey Report but that the single veteran Ash tree (T39) would not appear to be suitable to be within a back garden and should be left in an undisturbed area based on its RPA (root protection area) and that a Method Statement with fencing specification and a Tree Protection Plan will be required with the reserved matters application.
- 6.9.9 In conclusion, at the time of writing the report there are outstanding issues regarding ecology, however, as noted above the updated report has been submitted. As such officers are requesting delegated powers be granted to officers to resolve the ecology issue prior to granting consent but that in principle the site is capable of being developed without significant adverse impact on statutorily protected species or on important trees and hedges.
- 6.10 **Drainage**
- 6.10.1 Policy CS18 'Sustainable Water Management' of the Shropshire Core Strategy indicates that development should integrate measures of sustainable water management to reduce flood risk and avoid an adverse impact on water quality and quantity. Given the size of the site and that part of the site is identified within the Environment Agency flood zones a Flood Risk Assessment has been submitted which has undertaken a detailed mapping exercise to establish flood zone boundaries in the site. The majority of the site is within flood zone 1 but the northern section around Sych Brook is zones 2 and 3. The D&A advises that the foul drainage connection is to be agreed, but is to be connected to the existing mains drainage system and that surface water is to be discharged via a sustainable drainage system. The FRA notes the presence of existing foul and surface water drains in Hampton Drive, Croft Way and Ridings Close providing options for the sewerage provider to enable a connection.
- 6.10.2 The FRA concludes that soakaways are not considered feasible for the site and as such proposes discharge of the surface water to Sych Brook with restricted flow rates controlled through on-site attenuation. The report considers that the development will not result in any loss of flood plain, that safe emergency access can be maintained and proposes all of the new dwellings be constructed in flood zone 1, the area with the lowest probability of flooding.
- 6.10.3 The FRA has been considered by both the Council Drainage Engineer and by the Environment Agency. The Council Drainage Engineer has confirmed that they have no objection to the proposal subject to detailed information and further information to support the FRA being provided by condition. However the Environment Agency (EA) have submitted an objection to the proposal based on lack of information in the FRA assessing the proposed access road which will cross the flood plain. The road will have the potential to impact on the flood plain and the flood plain may also affect the road. The EA have also noted that Sych Brook flows under the A53 close to the site and that the FRA should consider potential blockage scenarios.
- 6.10.3 The EA have also commented on the need for a sequential test as part of the site is within flood zone 2 and 3. Whether a site passes the sequential test is a matter for the Council to determine. In the case of the application site, as part of a wider

site being promoted for allocation in the SAMDev, the Council has undertaken the sequential test for the site. Although it is accepted that there are other sites available for housing development in Market Drayton none of the sites are capable of providing the scale of development that is required for the town or the scale of development that the proposed site can deliver. Given the sequential test has been undertaken for the SAMDev it is not considered necessary or reasonable to re-asses the test or to consider sites in other towns as potential alternative sites. In this situation there is a requirement for new housing to be allocated and provided in Market Drayton and the application site has been assessed as the preferred option.

- 6.10.4 Further information has been received from the agent in response to the EA objection. However, at the time of writing the report, there remains an outstanding objection from the Environment Agency and as such officers are requesting delegated powers to approve the proposal subject to the resolution of the EA objection.

6.10 **Other matters**

- 6.10.1 The report submitted on behalf of the applicant advises that the site is sufficient distance from the conservation areas and nearest listed buildings, that there is a possible area of post medieval ridge and furrow and that the farmhouse in the centre of the site, Greenfields, is a 19th century farmhouse which has suffered serious losses to its fabric and is therefore considered to be of limited historic interest. The report concludes that there is no impact on designated heritage assets and low to nil potential for archaeological evidence. However, noting the Devensian fluvio-glacial drift deposits and that there is evidence of earthwork remains of medieval/ post-medieval ridge and furrow in a limited area near the south-east corner of the site the Council Archaeologist therefore recommends a condition requiring a phased programme of archaeological work.
- 6.10.2 A geo-environmental ground condition survey has also been undertaken which notes the potential for made ground, petroleum, ground gas, asbestos and pesticides and records the history of each part of the site. The report advises that the north west and southern parts are undeveloped except for agricultural use and therefore pose a low risk. The south east has undergone development in the form of the railway cutting, bund and light industrial uses and as such the consultant considers that this is low to moderate risk of contamination. The report makes recommendations for further chemical testing of site materials and waters, addition ground testing and a further assessment be undertaken of the water tank and shaft on the railway bund. The Council Public Protection Officer has not provided any specific advice in this regard however the Environment Agency have requested a detailed site investigation scheme which could then secured through conditions as part of any permission granted.
- 6.10.3 One objector has also noted the requirement for Market Drayton Town Council to provide sufficient supply of allotments. This is a matter for the Town Council. However the legislation does not require the Town Council to provide an allotment for every resident who requests one, it is for the Town Council to manage supply and provide further allotments if there is a demand and it is recognised by The National Allotment Society that contacting the Council can, in most cases, be getting your name on a waiting list. As such this issue is not a material planning

consideration in the determination of the application.

7.0 CONCLUSION

7.1 The site is located outside the current development boundary for Market Drayton and is therefore classed as a departure from the development plan. However, the site is part of the three sites being promoted for future housing development in the SAMDev and it is accepted that the site is in a sustainable location, on the edge of the existing built development, where it benefits from the facilities, services and infrastructure offered by the market town and will provide additional housing supply in accord with national planning policy priorities. Furthermore, the development will provide for affordable housing in accordance with Policy CS11 and infrastructure provision in accordance with policy CS9 and will not result in significant loss of agricultural land.

7.2 The proposed access off Hampton Drive is acceptable in principle as one means of access to the site, the development of the site would not result in severe traffic impacts, increase flood risk or adversely affect statutorily protected species and can be developed in a way that would not significantly affect the amenities of existing or future residents. However the development of this site will have to coordinate with the surrounding land in regards to access, internal layout, vehicular connectivity to the surrounding sites, public transport routes, surface water drainage, ecology mitigation and open space. It is accepted by the Council that the application site can be developed independently of the surrounding land but that a condition is required to show how the application site will form part of the wider allocation and comprehensive development of the wider allocation.

7.3 Accordingly, it is considered that, in principle, the proposal meets with the housing policies and general requirements of the NPPF and otherwise complies with Shropshire Core Strategies CS6, CS9, CS11, CS17 and CS18 of the Shropshire Core Strategy. In arriving at this decision the Council has used its best endeavours to work with the applicant in a positive and proactive manner to secure an appropriate outcome as required in the National Planning Policy Framework paragraph 187.

8.0 RISK ASSESSMENT AND OPPORTUNITIES APPRAISAL

8.1 Risk Management

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

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

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

and b) in any event not later than three months after the grounds to make the claim first arose 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 1970.

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**

10.1 Relevant Planning Policies

Central Government Guidance:
National Planning Policy Framework

Core Strategy and Saved Policies:
CS1 - Strategic Approach
CS3 - The Market Towns and Other Key Centres
CS5 - Countryside and Greenbelt
CS6 - Sustainable Design and Development Principles
CS9 - Infrastructure Contributions
CS11 - Type and Affordability of housing
CS17 - Environmental Networks

CS18 - Sustainable Water Management

10.2 Relevant planning history:

NS/06/02755/OUT Outline proposed recreational and residential development
WITHDRAWN 12th March 2007

NS/08/00268/OUT Outline proposed residential development to include formation of new
access WITHDRAWN 28th February 2011

11. ADDITIONAL INFORMATION

List of Background Papers (This MUST be completed for all reports, but does not include items containing exempt or confidential information)
Cabinet Member (Portfolio Holder) Cllr M. Price
Local Member Cllr Roger Hughes Cllr David Minnery
Appendices APPENDIX 1 - Conditions

This page is intentionally left blank