

Shropshire Council
Legal and Democratic Services
Shirehall
Abbey Foregate
Shrewsbury
SY2 6ND

Date: Monday, 22 February 2016

Committee:
South Planning Committee

Date: Tuesday, 1 March 2016

Time: 2.00 pm

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

You are requested to attend the above meeting.
The Agenda is attached

Claire Porter
Head of Legal and Democratic Services (Monitoring Officer)

Members of the Committee

David Evans (Chairman)
David Turner (Vice Chairman)
Andy Boddington
Nigel Hartin
Richard Huffer
John Hurst-Knight
Cecilia Motley
William Parr
Madge Shingleton
Robert Tindall
Tina Woodward

Substitute Members of the Committee

Charlotte Barnes
Lee Chapman
Heather Kidd
Christian Lea
Vivienne Parry
Kevin Turley
Leslie Winwood
Michael Wood

Your Committee Officer is:

Linda Jeavons Committee Officer
Tel: 01743 257716
Email: linda.jeavons@shropshire.gov.uk

AGENDA

1 Apologies for Absence

To receive any apologies for absence.

2 Minutes (Pages 1 - 8)

To confirm the minutes of the South Planning Committee meeting held on 2 February 2016.

Contact Linda Jeavons (01743) 252738.

3 Public Question Time

To receive any questions, statements or petitions from the public, notice of which has been given in accordance with Procedure Rule 14.

4 Disclosable Pecuniary Interests

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

5 Development Land Off Calcutts Road, Jackfield, Shropshire (14/04740/FUL) (Pages 9 - 36)

Demolition of existing dormer bungalow, garage and remaining outbuildings/greenhouse; erection of 10 dwellings; removal of trees and hedge (revised layout and description).

6 Land To The North Of Three Chimneys Cottage, Norbury, Shropshire (14/05768/FUL) (Pages 37 - 62)

Change of use of agricultural land and existing barn to equestrian use; erection of stock building, enclosure of lean-to to existing barn, creation of lunge ring and manege and siting of temporary mobile home to be used as equestrian workers dwelling.

7 The Lodge, Camp Lane, Ludlow, Shropshire, SY8 1EQ (15/01819/FUL) (Pages 63 - 74)

Erection of replacement dwelling following demolition of existing.

8 Land North Of The Coates, Longville In The Dale, Shropshire (15/01817/OUT) (Pages 75 - 88)

Outline application for the erection of an essential occupational workers dwelling (all matters reserved).

9 Proposed Residential Development Land East Of Bridgnorth Road, Highley, Shropshire (15/03170/OUT) (Pages 89 - 110)

Outline application (access, layout, scale not reserved) for residential development.

10 Westwood Quarry, Stretton, Westwood, Much Wenlock, Shropshire, TF13 6DD (15/05359/FUL) (Pages 111 - 140)

Restoration of disused quarry to restore habitat, in particular to encourage the re-growth of calcareous grassland (UK Biodiversity Action Plan priority habitat), utilising surplus material from proposed attenuation ponds that will form the Much Wenlock Flood Alleviation Scheme

11 Schedule of Appeals and Appeal Decisions (Pages 141 - 176)

12 Date of the Next Meeting

To note that the next meeting of the South Planning Committee will be held at 2.00 pm on Tuesday, 29 March 2016, in the Shrewsbury Room, Shirehall.

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Committee and Date

South Planning Committee

1 March 2016

SOUTH PLANNING COMMITTEE

Minutes of the meeting held on 2 February 2016

2.00 - 3.53 pm in the Shrewsbury/Oswestry Room, Shirehall, Abbey Foregate, Shrewsbury, Shropshire, SY2 6ND

Responsible Officer: Linda Jeavons

Email: linda.jeavons@shropshire.gov.uk Tel: 01743 257716

Present

Councillor David Evans (Chairman)

Councillors David Turner (Vice Chairman), Andy Boddington, Nigel Hartin, Richard Huffer, Cecilia Motley, William Parr, Robert Tindall, Tina Woodward and Kevin Turley (Substitute) (substitute for Madge Shingleton)

99 Apologies for Absence

Apologies for absence were received from Councillors John Hurst-Knight and Madge Shingleton (Substitute: Councillor Kevin Turley).

100 Appointment of Vice-Chairman

The Chairman thanked Councillor Stuart West, no longer a Member of this Committee, for his help, support and commitment and wished him well in his new post as a Cabinet Member.

RESOLVED:

That Councillor David Turner be appointed Vice-Chairman for the remainder of the municipal year.

101 Minutes

RESOLVED:

That the Minutes of the meeting of the South Planning Committee held on 1 December 2015 be approved as a correct record and signed by the Chairman.

In response to a question from a Member and with reference to Minute No. 92, the Planning Services Manager gave assurance that relevant Officers could be in attendance at meetings but requested that Members give Officers due notice of any concerns prior to the meeting in order that appropriate attendance could be arranged.

102 Public Question Time

There were no public questions, statements or petitions received.

103 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.

With reference to planning applications 15/04383/FUL and 15/04766/FUL, Councillor Andy Boddington declared that he was a member of The Shropshire Hills AONB Partnership.

With reference to planning applications 15/04383/FUL and 15/04766/FUL, Councillor Cecilia Motley declared that she was a member of The Shropshire Hills AONB Partnership and The Shropshire Hills AONB Partnership Management Board.

With reference to planning applications 15/04383/FUL and 15/04766/FUL, Councillor Robert Tindall declared that he was a member of The Shropshire Hills AONB Partnership. For information, he advised that he was the Deputy Portfolio Holder for Estates and Built Assets.

With reference to planning applications 15/04383/FUL and 15/04766/FUL, Councillor David Turner declared that he was a member of The Shropshire Hills AONB Partnership and The Shropshire Hills AONB Partnership Management Board.

At this juncture, the Solicitor advised Members that the Site Allocations and Management of Development Plan (SAMDev) had been adopted by Full Council on 17th December 2015. Accordingly, it was now part of the Council's adopted Local Plan along with the Core Strategy. Therefore policies from the old Borough and District Local Plans which had been saved were now no longer in force and should not now be afforded any weight.

The Solicitor explained that Section 38(6) Planning and Compulsory Purchase Act 2004 stated that applications for planning permission must be determined in accordance with the Development Plan unless material considerations indicated otherwise. The Local Plan was the starting point for decision taking and this now applied to SAMDev. However, it was important to note that interpretation of the Development Plan was a matter of law which meant reading policies as a whole and interpreting policy objectively in accordance with the language used and in its proper context.

The Solicitor reminded Members that the National Planning Policy Framework (NPPF) was national policy and remained a material consideration, to which it was clear from appeal decisions that significant weight must be attached. For example, the NPPF's presumption in favour of sustainable development and aim of significantly boosting housing supply remained important material considerations.

104 Development Land East of Garridge Close, Albrighton, Shropshire (14/03657/OUT)

The Principal Planner introduced the application and with reference to the drawings displayed, he drew Members' attention to the location, layout and elevations. In response to a question from a Member, he explained that prior to the adoption of SAMDev an area of the site was situated within the Green Belt; however, following SAMDev the land was now excluded from the Green Belt and the application site now fell within the Albrighton development boundary.

Members had undertaken a site visit the previous day and had viewed the site and assessed the impact of the proposal on the surrounding area.

Members noted the additional information as set out in the Schedule of Additional Letters circulated prior to the meeting.

Mr M Roberts, a local resident, spoke against the proposal in accordance with the Council's Scheme for Public Speaking at Planning Committees.

Councillor David Beechey, representing Albrighton Parish Council, spoke against the proposal in accordance with the Council's Scheme for Public Speaking at Planning Committees.

In the ensuing debate, Members considered the submitted plans and noted the comments of all speakers and some expressed concern with regard to access, particularly if further development took place on the adjacent site. Members welcomed the conditions that would be attached to any permission which would address parking and ensure appropriate tree protection; and acknowledged that further consultation would be undertaken with the local highway authority if any future development at White Acres took place.

RESOLVED:

That planning permission be granted as per the Officer's recommendation, subject to:

- The completion of a Memorandum of Understanding to secure an affordable housing contribution; and
- The Conditions as set out in Appendix 1 to the report.

105 Proposed Residential Development Land to the South of Rocks Green, Ludlow (15/04158/OUT)

The Planning Services Manager introduced the application and with reference to the drawings displayed, he drew Members' attention to the location, layout and elevations.

Members had undertaken a site visit that morning and had viewed the site and assessed the impact of the proposal on the surrounding area.

Members noted the additional information as set out in the Schedule of Additional Letters circulated prior to the meeting.

Mr J Murphy, representing local residents, spoke against the proposal in accordance with the Council's Scheme for Public Speaking at Planning Committees.

In response to comments, the Planning Services Manager explained that ownership of the land would not be a material planning consideration; despite the site being outside the SAMDev Plan, the NPPF supported development on sustainable brownfield sites so there were other material planning considerations that could be applied; and the revocation of the Certificate of Lawfulness would lead to an overall reduction in existing traffic and relative to what could potentially occur with this current proposal.

In the ensuing debate, Members considered the submitted plans and noted the comments of all speakers. A Member drew attention to SAMDev Policy MD3 which permitted sustainable development on sites outside of the Development Plan.

RESOLVED:

That planning permission be granted as per the Officer's recommendation, subject to:

- A Legal Agreement to deliver an affordable housing contribution and revocation of permission ref SS/1/07/19486/CE for storage use on applicant's land;
- It being advertised as a departure to the Development Plan; and
- The conditions set out in Appendix 1, subject to Condition No. 10 being amended to ensure the dwellings shall consist of no more than 1½ floors of living accommodation.

106 Proposed Dwelling South of Cargan, All Stretton, Shropshire (15/04383/FUL)

The Planning Services Manager introduced the application and with reference to the drawings displayed, he drew Members' attention to the location, layout and elevations. He drew Members' attention to a recent High Court judgement (Dartford Borough Council –v- Secretary of State for Communities & Local Government) which provided a judgement on the definition of previously developed land.

Members had undertaken a site visit that morning and had viewed the site and assessed the impact of the proposal on the surrounding area.

Members noted the additional information as set out in the Schedule of Additional Letters circulated prior to the meeting.

Mrs D Humphreys, the agent, spoke for the proposal in accordance with the Council's Scheme for Public Speaking at Planning Committees.

In accordance with the Local Protocol for Councillors and Officers dealing with Regulatory Matters (Part 5, Paragraph 15.1) Councillor David Evans, as local Ward

Councillor, made a statement in support of the application and then left the room, took no part in the debate and did not vote on this item.

At this juncture, the Vice Chairman took the Chair.

In the ensuing debate, Members considered the submitted plans and noted the comments of all speakers. Members considered the proposal to be sustainable and acknowledged that the design had been amended and improved following a previous refusal. A Member commented that planting and landscaping should be sympathetic and appropriate for a site within the Area of Outstanding Natural Beauty (AONB).

RESOLVED:

That, contrary to the Officer's recommendation, planning permission be granted, subject to:

- A Section 106 Legal Agreement to secure an appropriate affordable housing contribution;
- It being advertised as a departure to the Development Plan;
- Appropriate conditions with regard to materials, access, landscaping and drainage; and
- Removal of Permitted Development Rights.

(At this juncture, the meeting adjourned at 2:57 pm and reconvened at 3:02 pm.)

(The Chairman returned to the meeting and resumed the Chair.)

107 Bodbury, Cardingmill Valley, Church Stretton, Shropshire, SY6 6JG (15/04766/FUL)

The Principal Planner introduced the application and with reference to the drawings displayed, he drew Members' attention to the location, layout and elevations.

Members had undertaken a site visit that morning and had viewed the site and assessed the impact of the proposal on the surrounding area.

In accordance with Council Procedure Rules (Part 4, Paragraph 6.1) Councillor Lee Chapman, as local Member, made a statement in support of the proposal, took no part in the debate and did not vote on this item. During his statement, the following points were raised:

- Would provide an opportunity for three generations to reside in one dwelling and care for each other in their own home;
- There had been no formal objections from neighbours and the one neighbour comment had come from a resident who lived over 1½ miles from the site; and
- There were taller properties in the area.

Mr A Southee, the applicant, spoke for the proposal in accordance with the Council's Scheme for Public Speaking at Planning Committees.

In accordance with the Local Protocol for Councillors and Officers dealing with Regulatory Matters (Part 5, Paragraph 15.1) Councillor David Evans, as local Ward Councillor, made a statement in support of the application and then left the room, took no part in the debate and did not vote on this item. During his statement, the following points were raised:

- He acknowledged the support from both the Church Stretton Town Council and the other local Ward Councillor for this application; and
- Considered the proposal to be acceptable if due regard was paid to the design and the use of appropriate materials.

At this juncture, the Vice Chairman took the Chair.

In the ensuing debate, Members considered the submitted plans and noted the comments of all speakers.

RESOLVED:

That, as per the Officer's recommendation, planning permission be refused for the following reasons:

- Bodbury is a small detached dwelling situated in a prominent position on a hillside in the Shropshire Hills Area of Outstanding Natural Beauty and within the Church Stretton Conservation Area. The scale and height of the proposed extensions would make the existing dwelling considerably larger and more prominent. The development would greatly detract from the character and appearance of the Cardingmill Valley. It is not considered the personal circumstances put forward are sufficient to outweigh the harm identified. As a result the proposal is contrary to paragraph 115 of the National Planning Policy Framework, policies CS5, CS6 and CS17 of the Council's Core Strategy, policies MD2 and MD12 of the Council's Site Allocations and Management of Development and the Council's Type and Affordability of Housing Supplementary Planning Document.

(The Chairman returned to the meeting and resumed the Chair.)

108 Schedule of Appeals and Appeal Decisions

RESOLVED:

That the Schedule of Appeals and Appeal Decisions for the southern area as at 2 February 2016 be noted.

109 **Date of the Next Meeting**

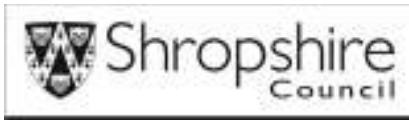
RESOLVED:

That it be noted that the next meeting of the South Planning Committee will be held at 2.00 pm on Tuesday, 1 March 2016 in the Shrewsbury Room, Shirehall, Shrewsbury, SY2 6ND.

Signed (Chairman)

Date:

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Committee and date

South Planning Committee

1 March 2016

Development Management Report

Responsible Officer: Tim Rogers

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

Summary of Application

Application Number: 14/04740/FUL	Parish:	Broseley
Proposal: Demolition of existing dormer bungalow, garage and remaining outbuildings/greenhouse; erection of 10 dwellings; removal of trees and hedge (revised layout and description)		
Site Address: Development Land Off Calcutts Road Jackfield Shropshire		
Applicant: Mr A Rickards		
Case Officer: Kelvin Hall	email: planningdmc@shropshire.gov.uk	

Grid Ref: 368204 - 302785



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REPORT

Recommendation: Subject to the satisfactory resolution of outstanding issues relating to the design of the visibility splay, grant permission subject to the conditions set out in Appendix 1, and to the prior completion of a legal agreement to secure the requisite affordable housing provision and for the management of open space.

1.0 THE PROPOSAL

- 1.1 The application seeks planning permission for the erection of ten dwellings on land off Calcutts Road, Jackfield following the demolition of an existing bungalow and outbuildings. The dwellings would be arranged either side of the existing access road through the centre of the site. This access road would be extended and improved.
- 1.2 The proposed development would include a mix of dwelling sizes, comprising: three detached 4 bedroomed dwellings, each with detached double garage; a pair of semi-detached 3 bedroomed dwellings; a row of three 2 bedroomed dwellings; and a pair of semi-detached 2 bedroomed dwellings. The principal elevations of the two proposed dwellings adjacent to Calcutts Road would face out on the public highway. One of these would be an L-shaped property with detached double garage. It would have an open porch provided by a mono-pitched canopy in exposed painted timber and plain clay tiles for the porch roof. The 3 bedroomed semi-detached dwellings would be 3 storey properties with parking provided to the rear. The 2 bedroomed semi-detached/terrace dwellings would be two storey, with parking provided via communal car parking spaces to the front of the dwellings.
- 1.3 The site layout would incorporate a turning area at the back of the site to ensure that vehicles can turn within the site and exit onto the public highway in forward gear. Landscaping would be undertaken within the site, and an area of communal open space would be provided at the back of the site.
- 1.4 The application as originally submitted proposed the construction of 12 dwellings, and an additional access onto Calcutts Road. A series of modifications have since been made to the design and layout of the proposal, to seek to address concerns raised by consultees and local resident. This has resulted in a number of improvements to the proposed development, including:
- A reduction in the number of dwellings proposed from 12 to 10 resulting in a reduced density of development;
 - Re-positioning of dwellings to provide improved separation distance to adjacent properties;
 - A reduction in the number of vehicle accesses onto Calcutts Road from two to one;
 - An increased amount of parking space per unit;
 - An improved circulation space for delivery and other vehicles;
 - An increased area of communal open space;
 - Improved layout in relation to protected trees;
 - Repositioning of dwellings to provide additional rear garden.

- 1.5 The application is accompanied by a design and access statement, a heritage assessment, an arboricultural impact assessment, an ecology report, and an environmental report encompassing a stability assessment and mining risk assessment.

2.0 SITE LOCATION/DESCRIPTION

2.1 The site comprises an existing residential property within a relatively large plot located on the eastern side of Calcutts Road in Jackfield. The site covers an area of approximately 0.46 hectares, with an elongated shape approximately 110 metres deep and 45 metres wide. Top Bungalow is set back approximately 65 metres into the site. The central part of the site, which includes Top Bungalow and a long domestic front garden, is generally flat. The south-western and north-eastern flanks of the site are wooded, with the former trees being subject to a Tree Protection Order. The south-western site edge rises up to the site boundary; the north-eastern flanks fall to the site boundary. The site lies within an area of former mine working and there are a number of treated mine shafts on the south-western side of the site.

2.2 Surrounding land is primarily in residential use, with an industrial unit situated adjacent to the eastern boundary. Access to the site would be gained via the existing access.

2.3 The site lies within the boundary of the Ironbridge Gorge World Heritage Site and the Severn Gorge Conservation Area. The site is located adjacent to the Shropshire/Telford & Wrekin boundary, which runs along the north-western side of Calcutts Road.

3.0 REASON FOR COMMITTEE DETERMINATION OF APPLICATION

3.1 This Town Council has submitted a view contrary to the Officer recommendation, and the Local Member has requested that the application is determined by Planning Committee. The Principal Planning Officer, in consultation with the Committee Chairman, consider that the application raises planning issues that would warrant determination by the Planning Committee.

4.0 Community Representations

-Consultee Comments

4.1.1 **Broseley Town Council** Objects. Councillors were pleased that the density of housing had been reduced but remained concerned about the location of the public open space.

Previous comments 3/11/2015 - Object. The revised plan is still too high density for the site and potential car parking problems are envisaged. The provision and location of the open space is inadequate. The design and layout fail to do justice to the World Heritage Site location. Councillors noted the points raised by a local resident who makes a series of valid comments, particularly in relation to difficulties with levels on the site and the effect on the privacy of neighbouring properties.

Original comments 22/12/2014 – The Town Council welcomes limited redevelopment of this site, as in recent years it has been neglected and become somewhat unsightly. However BTC makes the following objections to this

particular development proposal:

1. The provision of the new access 16m to the right of the existing access, and therefore closer to the traffic light controlled junction with Ironbridge Road, creates an unnecessary hazard.
2. The proposed development is too high density resulting in inadequate open space, as noted by SC Parks and Recreation, and inadequate recognition being given to the issues set out in the County Arboriculturalist's comment.
3. The Design and Access Statement acknowledges that the site is within the Ironbridge Gorge World Heritage Site but the application has failed to provide the Heritage Assessment requested by SC Archaeology.

- 4.1.2 **Historic England** [Comments made in relation to application as originally submitted] The application site is located within the Ironbridge Gorge world Heritage Site and the Severn Gorge Conservation Area. . Development on this site could have an impact upon the setting and significance of these designated heritage assets.

The application does not contain sufficient information to understand the potential impact of the proposals on the significance of the designated heritage assets and further information is required regarding the impact of the proposed development upon their setting. For further guidance on this matter please see our guidance document, *The Setting of Heritage Assets*. One of the key principles for assessing the implications of change affecting the setting of Heritage Assets reads:

“A proper assessment of the impact on setting will take into account, and be proportionate to, the significance of the assets and the degree to which proposed changes enhance or detract from that significance and the ability to appreciate it.”

Para 128 of the NPPF states “in determining applications, local planning authorities should require an applicant to describe the significance of any heritage assets affected, including any contribution made by their setting. The level of detail should be proportionate to the assets' importance and no more than is sufficient to understand the potential impact of the proposals on their significance. As a minimum the relevant historic environment record should have been consulted and the heritage assets assessed using appropriate expertise where necessary”.

It is recommended that the above issues are addressed. The application should be determined in accordance with national and local policy guidance, and on the basis of your specialist conservation advice.

- 4.1.3 **SC Conservation Officer** Recommends conditions. In considering the proposal due regard to the following local and national policies, guidance and legislation has been taken; CS6 Sustainable Design and Development and CS17 Environmental Networks of the Shropshire Core Strategy, the National Planning Policy Framework (NPPF) published March 2012, Planning Practice Guidance and Sections 66 and 72 of the Planning (Listed Building and Conservation Areas) Act 1990.

The amended designs and additional street scenes provided have alleviated some of the concerns raised previously. It is considered that provided appropriate materials and finishes are used overall the development will preserve the character of the conservation area in line with policies, guidance and legislation as outlined

above.

Suggested conditions: External materials - Samples, Roof details and materials, Joinery details, Landscaping.

Previous comments: The application site lies within the Severn Gorge Conservation Area and the World Heritage Site. The existing bungalow is of approximately 1960s construction and is of no particular architectural or historic merit to warrant retention, therefore there are no conservation objections to the demolition. Overall there are no objections raised to the principle of residential development on the site. The site lies within a mixed area in terms of property style, however there are traditional properties in the wider area of Jackfield that can influence design themes.

4.1.4 **SC Archaeology** Recommends a condition.

Background to Recommendation: The development proposal involves a parcel of land located within the designated World Heritage Site of Ironbridge Gorge and within the former extent of Rock Tile Works (HER PRN 07242) that included a number of mining shafts, clay extraction pits and tramways serving the main factory complex located just outside of the proposed development boundary. A number of additional non-designated heritage assets relating to former industrial activity are located close to the development area. In view of the above and in accordance with NPPF Section 128 it was recommended at a Heritage Assessment of the application site should be provided as part of the planning application. A heritage assessment comprising an archaeological Desk Based Assessment and walkover survey has now been submitted. This identifies the main archaeological interest of the development site to be the remains of early coal mining industries and brick and tile industries. Cartographic evidence for the proposed development site depicts mining and tramways associated with Rock Tile Works, with earlier mining located on or near the boundary of the site. Old shafts and associated tips are recorded within the south east corner of the development site and near the south-western boundary, with the wooded bank along the south west boundary likely to be the result of early coal mining activity as recorded by 19th / early 20th century OS maps, and may mask the site of a former shaft or shafts. In this area, the potential for unrecorded shafts and associated workings is considered high. The heritage assessment concludes that much of the development site has been levelled and improved to create the existing access and former garden, and the former railway / tramway is likely to have been destroyed during the construction of the bungalow in the 1960s. As a result this part of the site is considered to be of low archaeological potential. However, the areas of overgrown scrub and the southern parts of the proposed development site are potentially of high archaeological interest. We concur with these findings. Please note, the Conservation Officer for the Bridgnorth Area will comment on the impact of the proposed development on the World Heritage Site and Conservation Area. The recommendations made below therefore only relate to the archaeological interest of the proposed development site.

In view of the above, and in relation to Paragraph 141 of the NPPF, it is advised that a programme of archaeological work be made a condition of any planning permission for the proposed development. This is to comprise an archaeological evaluation in association with any investigations into the potential mining remains

prior to the development of the site, and a watching brief during ground works associated with proposed development (see Appendix 1).

- 4.1.5 **SC Highways Development Control** No objections subject to conditions. The application form submitted indicates that the proposed estate road is to remain private therefore as Highway Authority we would raise no objection to the proposed development and the proposed layout. It is noted that details of visibility splay (drawing no. 1270/14-15) have been submitted that indicate that a visibility splay of 1.984 metres by 40 metres. It should be noted that this does not meet minimum visibility requirements and we would seek further improvement to the proposed access arrangements to provide a minimum of 2.4 metres by 43 metres.

It is recommended that a condition requiring the prior approval of details of the means of access, including the layout, construction and sightlines, is added to any permission granted.

- 4.1.6 **SC Drainage** Drainage details are required, including calculations and details of the sizing of the proposed soakaways, surface water management details, and the interception system to prevent water flowing onto the highway. These can be dealt with by planning condition.
- 4.1.7 **SC Public Protection** Having reviewed the location and historic maps of the site and reviewed the environmental assessment submitted with this application it is considered that further works are required in relation to contaminated land, as recommended in the Environmental report. A condition is recommended (see Appendix 1).
- 4.1.8 **SC Ecology** Recommends conditions.

Bats: Shropshire Wildlife Surveys inspected the bungalow and associated buildings in July but no evidence of bats was found. As the bungalow had medium potential for bats, four emergence/re-entry surveys were undertaken in August and September 2014. Low numbers of four bat species were recorded during the survey but none were found to emerge from the bungalow. It is recommended that care is taken during the roof removal as there is still some potential for bats.

Eight trees and a blackthorn hedgerow are proposed for removal. None of these are considered to have potential to contain bat roosts. The majority of the existing trees are indicated for retention but there will be a loss of some bat foraging and commuting areas. The proposal for amenity planting at the southern end of the site and management of the existing woodland is welcomed.

It will be necessary to restrict lighting to avoid affecting bat use of the site, with it being particularly important not to illuminate the woodland strip on the southern boundary. A condition also requires provision of bat boxes (see Appendix 1).

Great crested newts: There is a pond within 230m of the application site. Having regards to the roads and development between the pond and the site the risk of any great crested newts using the application site is low. An informative is recommended.

Nesting birds: The vegetation to be removed is good bird nesting habitat therefore a condition and informative 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.

- 4.1.9 **SC Trees** No objections subject to conditions. The revised layout (rev G) satisfactorily addresses previous concerns.

It is not considered that the arboricultural impact of the proposed removal of a section of native hedgerow and young trees to the north-eastern site boundary would be sufficient to warrant objection to the proposed development. The impact could be mitigated through a high quality tree planting scheme, which should form part of any approved development. In addition, suitable precautions should be taken to protect retained trees on site during any approved development.

It is noted that the submitted tree survey and tree protection plan are based upon a now superseded site layout. These will need to be updated to reflect the new layout. Conditions are recommended to address this, and to require the submission and implementation of a landscaping scheme (see Appendix 1).

- 4.1.10 **SC 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 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 20%. A development of 11 homes would need to provide 2 affordable homes on site and a financial contribution. The assumed tenure would be for affordable rented accommodation 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. The size, type and tenure of the affordable homes will need to be agreed with the Housing Enabling Team.

- 4.1.11 **SC Parks and Recreation** [comments based upon the application for 12 dwellings as originally submitted] Under Shropshire Council's current planning policy regulations, the Open Space Interim Planning Guidance adopted 11th January 2012, all development should provide 30m² of public open space per bed space. The proposed development should therefore provide a minimum 1020m² of useable amenity public open space as part of the site design. The inclusion of public open space is critical to the continuing health and wellbeing of the local residents. Public open space meets all the requirements of Public Health to provide space and facilities for adults and children to be both active physically and mentally and to enable residents to meet as part of the community.

4.1.12 **Coal Authority** No objections subject to imposition of conditions.

The application site falls within the defined Development High Risk Area; therefore within the application site and surrounding area there are coal mining features and hazards which need to be considered in relation to the determination of this planning application.

The applicant has obtained appropriate and up-to-date coal mining information for the proposed development site and has used this information to inform the Phase 1 Geo-Environmental Report, Stability Assessment and Mining Risk Assessment Report (dated August 2014, produced by Sladen Associates), which accompanies this planning application.

The Mining Risk Assessment Report correctly identifies that the application site has been subject to past coal mining activity. The site contains a recorded mine entry for which no treatment details are recorded together with unrecorded probable historic underground coal workings at shallow depth and a thick coal outcrop. This mine entry has a potential departure distance of 5m which means that it could be up to 5m in any direction from its best plot position. A further mine entry to the north-west potentially has a zone of influence that may go into the site. This mine entry was capped by the former NCB in 1977. It is noted that the Mining Risk Assessment Report was produced based on the premise that the site would accommodate 11 dwellings; the current proposal is for 12 dwellings.

The Mining Risk Assessment Report highlights the potential for a possible unrecorded shaft at the southern end of the site. The Report recommends that intrusive site investigations are undertaken to investigate the unrecorded probable historic underground coal workings at shallow depth. This would then identify if remedial measures are required to facilitate development. The Report also recommends that intrusive site investigations are undertaken to investigate the location of the mine entries, it will then be necessary to determine the actual zone of influence and the necessary 'no-build' areas above them.

The Coal Authority would often want to see the mine entries located definitively in order to be taken into account in the layout. However in this case the layout has been planned taking account of sufficient stand-off distance to allow for the departure distance and any likely zone of influence for the mine entry. Therefore The Coal Authority considers in this case planning permission subject to the imposition of conditions would be appropriate.

The Coal Authority concurs with the recommendations of the Coal Mining Risk Assessment Report; that coal mining legacy potentially poses a risk to the proposed development and that intrusive site investigation works should be undertaken prior to development in order to establish the exact situation regarding coal mining legacy issues on the site.

The Coal Authority recommends that the LPA impose a Planning Condition should planning permission be granted for the proposed development requiring these site investigation works prior to commencement of development.

In the event that the site investigations confirm the need for remedial works to treat the mine entries or areas of shallow mine workings etc. to ensure the safety and stability of the proposed development, this should also be conditioned to ensure that any remedial works identified by the site investigation are undertaken prior to commencement of the development.

In this case given the ongoing public safety risks to further built development from the mine entries The Coal Authority would recommend the need to withdraw Permitted Development Rights to ensure that no built development is erected over the mine entries.

4.1.13 **Telford and Wrekin Council (adjacent authority)** No comments received.

4.1.14 **West Mercia Constabulary – Crime Prevention** There are opportunities to design out crime and /or the fear of crime and to promote community safety. Should permission be granted it is recommended that a condition is add to advise that the application aims to achieve the Secured by Design (SBD) award (seen informatives).

4.2. -Public Comments

4.2.1 The application has been advertised on site and in the local press. In addition 11 residential properties and businesses in the local area have been directly notified.

4.2.2 One objection has been raised, on the grounds as summarised as follows:

- Revised scheme has had some improvements made but most of the major issues still remain which are fundamentally created by trying to cram too many units onto this small site
- properties immediately opposite the development on the other side of Calcutts Rd should be added to the 1:500 proposed plan so that separating distances can be accurately measured
- the proposed 4 bed property is only 19m away from habitable windows of the existing house on the other side of Calcutts Rd. This should be increased to an absolute minimum of 21m in line with nationally used guidance
- no visitors parking provided within the development meaning that visitors will park along Calcutts Rd, creating safety issues along the road and impeding drivers coming up Calcutts Rd when trying to turn into the existing driveways on the opposite side of Calcutts Rd. It will also mean that vehicles will park within the visibility splay for the new access road creating further safety issues
- garage and driveway at the front of the site on the main street elevation is poor design and not in keeping with the conservation area; garages should sit behind the build line;
- driveway joins the new access road at the same point where the access road joins Calcutts Rd creating safety issues for people entering the site/reversing off the drive;
- visibility splay goes through 3rd party walls and thus the visibility as indicated is not actually provided. Telegraph pole within the splay is not shown;
- The visibility splay of 40000x1984mm seems a very random figure;
- design guidance on areas of open space states that it should be centrally located, convenient and well surveillanced by surrounding properties; the 'community amenity area' is tucked away at the back of the site, is not on any desire line, is accessed through a narrow passage way and has zero natural

- surveillance; of no benefit to the community; has the potential to become a site for anti-social behaviour and rubbish dumping; query the actual area proposed;
- pair of 3 bed semi's that front onto Calcutts Rd should site behind the established build line of the existing properties they adjoin; proposed position will create an awkward relationship, especially given that the new buildings are so much smaller in scale;
 - The layout is very rigid, linear and dense, not in keeping with the conservation area. The view into the scheme from Calcutts Rd terminates with a garden wall. There should be a building or other feature to terminate this long view into the site
 - Query which trees are to be removed/retained; the change in levels that are proposed on the street sections would mean that these trees would be damaged and killed;
 - The middle house of the terrace of 2 bed houses has an access path to its rear garden than runs across the middle of the neighbouring properties rear garden. This creates a piece of land on the other side of the access path that is owned/maintained by no one
 - The pair of 3 bed semi's that site within the site have gardens that are very steeply sloping meaning they will have very little useable private amenity space. One has a garden that is on average only 7m long (running down to 4.5m); cross sections should be provided where there are levels issues to properly demonstrate what is proposed
 - due to the site levels there is no pedestrian route to the front doors of the 3 bed semi's that front onto Calcutts Rd; the garden level of these properties is 2.5m below the immediately adjacent access road. If a fence is put along the access road/garden boundary to afford the occupants privacy then the garden will be bounded by a 3.5-4m vertical face. The level/layout should be reviewed;
 - The parking to the new pair of 3 bed semi's onto Calcutts Rd is remote from the dwellings being over 35 and 40m from the front door of the houses. There is no access to the rear door of the properties due to level issues/retaining walls
 - Road safety issued due to residents and their visitors parking on Calcutts Rd next to the junction with the access Road, preventing large vehicles from turning into the existing driveways on the opposite side of Calcutts Rd
 - scheme does not properly respect the constraints of the site and its conservation area setting

5.0 THE MAIN ISSUES

- Principle of development
- Siting, scale and design
- Landscaping and ecology
- Residential Amenity
- Highways and access
- Drainage
- Land Stability and contamination
- Archaeology
- Affordable Housing

6.0 OFFICER APPRAISAL

6.1 Principle of development

- 6.1.1 The application needs to be determined in accordance with the Development Plan for the area, unless material considerations indicate otherwise. The application site

is located within the development boundary of Broseley (which incorporates Jackfield) as defined in the SAMDev Plan. Core Strategy policy CS3 supports residential development of an appropriate scale and design that is located within a development boundary. The Broseley Town Plan 2013-2026, although not part of the Development Plan, is a material consideration which needs to be taken into account in the determination of planning applications. The relevant SAMDev settlement policy for Broseley states that housing developments should be small scale to reflect the local character and meet the design principles of the Town Plan. The proposal would involve the redevelopment of an existing site within residential use, and para. 17 of the NPPF states that such development is encouraged. As such it is considered that there is no in principle planning policy objection to the proposed residential re-development of the site.

6.2 **Siting, scale and design**

6.2.1 The NPPF advises that good design is a key aspect of sustainable development, and that planning should aim to ensure that developments are visually attractive, that they optimise the potential of the site to accommodate development, that they respond to local character and history, and that they create safe and accessible environments. Core Strategy policy CS6 seeks to ensure that development is appropriate in scale, density, pattern and design taking into account local context and character, and those features which contribute to local character. Policy CS17 also seeks to protect and enhance the diversity, high quality and local character of Shropshire's natural, built and historic environment. SAMDev Plan policies MD2 (Sustainable Design), MD12 (The Natural Environment) and MD13 (The Historic Environment) support those of the Core Strategy.

6.2.2 Section 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990 requires local planning authorities to have special regard to the desirability of preserving or enhancing the character or appearance of a conservation area.

6.2.3 Layout and density: The layout of the development reflects the particular site constraints that apply to the site, including its elongated shape, the presence of protected trees and former mineshafts, and the sloping topography along the south-western and north-eastern flanks. The positioning of the pair of semi-detached dwellings at the front of the development would mimic the build line and construction level of the existing adjacent terrace. The proposed 4 bedroomed dwelling adjacent to Calcutts Road has now been set back further into the site to provide a more acceptable separation distance to the side elevation of the existing property on the opposite side of road.

6.2.4 The proposed development incorporates a satisfactory level of landscaping within the layout. The layout incorporates a communal amenity area at the south-eastern side of the site, amounting to 481m². Passive surveillance of this area would be provided by the adjacent semi-detached dwellings proposed. It is acknowledged that this does not meet the standard for open space provision, as identified within the Council's adopted guidance, of 840m² which would be the target for a development of this size. Nevertheless it is considered that the proposed communal area, together with the area of retained woodland which the applicant envisages would be available as open space, would provide a satisfactory level of amenity space within this development. The management of these areas can be secured through a Section 106 legal agreement.

- 6.2.5 The application as originally submitted proposed the construction of 12 dwellings on this site. The application has now been revised to reduce the number of dwellings to 10, to seek to address concerns of the Town Council and local resident over the density of the development, and to provide an overall improved layout following advice from Officers. It is acknowledged that the Town Council consider that the density is still too high. Nevertheless it is considered that the proposed development would provide an acceptable mix of dwelling types. The level of car parking provision – more than 2 per dwelling – would be acceptable, and landscaping and open space provision would be satisfactory. Officers consider that the layout would avoid a cramped appearance.
- 6.2.6 The proposal incorporates a turning area at the back of the site to allow vehicles, including delivery vehicles, to enter and exit the site in forward gear. The driveway to the 4 bedroom dwelling at the front of the site is of sufficient width to ensure that vehicles exiting the drive would not impede vehicles turning into the site from Calcutts Road. Parking provision for the semi-detached dwellings at the front of the site would be set back into the site in order to allow for the retention of existing trees on the site.
- 6.2.7 Design: The immediate built environment surrounding the site comprises a mix of dwellings styles and ages. This includes the two-storey terrace at the north-east boundary of the site, built between 1902 and 1927; and modern dwellings on the opposite side of Calcutts Road. The dwellings proposed would have similar styles and finishes to complement each other. The dwellings would incorporate open porches and chimneys, soldier course brickwork and plain clay tiles. It is considered that in principle the design of the development would be in keeping with the 19th and early 20th century house types found in the locality. The Council's Historic Conservation Officer raised some concerns regarding the design of the development as originally submitted, including over the proposed use of 3 storey elements adjacent to 2 storey existing dwellings. However the Officer considers that the revised designs and the streetscene drawings subsequently provided have alleviated some of these concerns. The Officer considers that overall the development would preserve the character of the Conservation Area providing appropriate materials and finishes are used. These matters, including roof and joinery detail, would be the subject of appropriate planning conditions on any permission granted.
- 6.2.8 Overall it is considered that the demolition of the 1960's built bungalow and the redevelopment of the site as proposed would result in an enhancement to the overall appearance of this part of the World Heritage Site and Conservation Area.
- 6.3 Landscaping and ecology**
- 6.3.1 Core Strategy Policy CS17 seeks to protect and enhance the diversity, high quality and local character of Shropshire's natural environment and to ensure no adverse impacts upon visual amenity, heritage and ecological assets. SAMDev Plan Policy MD2 requires that development enhances, incorporates or restores natural assets.
- 6.3.2 Trees: The application is accompanied by an Arboricultural Assessment report which has assessed the condition and quality of the trees within the development site, including those on the south-western boundary forming part of the Tree

Protection Order (TPO). It has also identified the potential impacts on these trees from the siting of the dwellings. The trees subject to protection under the TPO include a variety of deciduous species with a range of heights and ages. They include ash, sycamore, silver birch, goat willow and oak. The proposed development provides for the retention of these trees. A revised layout has now been submitted which satisfactorily addresses the previous concerns raised by the County Arboriculturalist regarding the proximity of new dwellings to the protected trees.

6.3.3 A number of other trees would be removed as part of the development. These are younger trees situated to the north-eastern side of the site, outside of the TPO. The County Arboriculturalist considers that the arboricultural impact of this is not sufficient to warrant an objection to the development. It is considered that, subject to conditions requiring appropriate protection of existing trees and the landscaping of the site, the design of the proposal is appropriate having regard to the desire to retain trees that are important to the appearance of the area.

6.3.4 Protected species: The application is accompanied by a Protected Species Survey report. This identifies that there is medium potential of bats using the existing bungalow on the site as a place of rest. The Council's Ecologist has recommended that a lighting plan is submitted for approval, to ensure that disturbance to bats is minimised. This, together with conditions requiring the provision of bird and bat boxes, can be dealt with by planning conditions.

6.4 Residential Amenity

6.4.1 Core Strategy policy CS6 seeks to safeguard residential amenity. The site lies within a residential area with existing dwellings adjacent and opposite the site. The closest residential property is situated at the north-eastern boundary of the site. The side elevation of the proposed pair of semi-detached dwellings would face onto the side elevation of this existing property which has a window at ground floor level. The proposed dwelling would have three small windows on this side elevation, for the ground floor WC and the first and second floor landing. It would be appropriate to require that these are obscure glazed to provide privacy to the adjacent residents.

6.4.2 As noted above the position of the proposed 4 bedroomed detached dwelling at the western side of the site adjacent to Calcutts Road has now been set back further into the site such that there would be a greater separation distance between its principal elevation and the side elevation of the property on the opposite side of the road. The concerns of the resident of this property that this distance to the nearest habitable rooms of this existing elevation is insufficient are acknowledged. Nevertheless this distance between the two 2-storey dwellings would be approximately 19 metres and it is not considered that potential impacts on the residential amenity of both properties would warrant refusal of the application.

6.4.3 There would inevitably be some local disturbance during construction works, and it is considered that this can be minimised through the implementation of a construction management plan.

6.5 Highways and access considerations

6.5.1 Shropshire Core Strategy policy CS6 seeks to secure safe developments. In relation to highway safety factors to be considered include the capacity of the local road network and access to accommodate the traffic likely to be generated and adequate parking and servicing provision. The proposed development would utilise the existing access that serves the bungalow on the site. The submitted access drawings identify the dimensions of the proposed visibility splay (Some 2 metres by 40 metres). The Highways Officer has advised that they have no objection to the proposed development and layout, but an improvement should be sought to achieve a 2.4 metres by 43 metres splay. The extent to which the visibility splay can be extended in a north-easterly direction is restricted somewhat by the presence of a stone wall which is situated at the edge of the carriageway in front of the existing terrace of properties in this direction, but the elevated position of the access and the road curvature which means that vehicles are likely to be traveling at slow speed are also factors to be taken into account in assessing visibility. In order to seek to address this the applicant's agent is investigating the possibility of modifications to increase visibility to the north-east. At the time of writing this report updated drawings had yet to be received. Members will be updated on this situation in advance of or at the Committee meeting.

6.6 Drainage considerations

6.6.1 Core Strategy policy CS18 seeks to reduce flood risk and avoid adverse impact on water quality and quantity. SAMDev Plan policy MD2 requires that developments incorporate sustainable drainage techniques in support of policy CS18. It is proposed that surface water drainage would be to soakaway. The Council's Drainage team have advised that further details of the proposed drainage arrangements are required, and that these matters can be dealt with by planning condition. An appropriate condition is included in Appendix 1.

6.7 Land stability and contamination

6.7.1 The National Planning Policy Framework (NPPF) advises at paragraph 120 that where a site is affected by contamination or land stability issues, responsibility for securing a safe development rests with the developer and/or landowner. It requires at paragraph 121 that planning policies and decisions should take account of ground conditions and land stability, and that adequate site investigation information, prepared by a competent person, is presented. Core Strategy policy CS6 seeks to secure safe developments.

6.7.2 The application is accompanied by an Environmental report which includes a stability assessment and a mining risk assessment. The report identifies that, due to historic mining activities in the area, ground conditions at the site are expected to comprise a variable thickness of made ground overlying the bedrock. The report recommends that further ground investigations are carried out to allow more detailed risk assessments to be prepared prior to development. It concludes that subject to the above precautions there is no reason why the site cannot be safely developed as proposed. The conditions recommended by the Council's Public Protection Officer would ensure that potential contamination is satisfactorily addressed.

6.7.3 The Coal Authority has advised that the site falls within the defined Development High Risk Area in respect of past coal mining activity. They consider that the layout

has been planned taking account of sufficient stand-off distance to allow for the departure distance (To take account that mine entries may not be plotted accurately) and any likely zone of influence for the mine entry. They concur with the findings of the Environmental Report that a site investigation is undertaken and confirm that it would be appropriate for this to be dealt with by planning condition. This is in line with the recommendations of the Council's Public Protection Officer, and appropriate planning conditions are set out in Appendix 1.

6.8 Archaeology

6.8.1 Core Strategy policies CS6 and CS17 seek to protect the historic environment, which includes areas of archaeological interest.

6.8.2 The submitted Heritage Assessment identifies that the main archaeological interest in the area is relate to the early coal mining and brick and tile industries. The report considers that the overgrown areas of scrub and the south-east end of the site are potentially of high archaeological interest. In view of this, the Council's Archaeology team have recommended that a programme of archaeological work is undertaken to evaluate such interest. This can be secured through an appropriate planning condition.

6.9 Affordable Housing

6.9.1 Core Strategy Policy CS11 and the Supplementary Planning Document (SPD) on the Type and Affordability of Housing require that all new open market housing development makes a contribution to the provision of local needs affordable housing. The Affordable Housing team have advised that the prevailing contribution rate for this area is 20%. A development of 10 dwellings would therefore need to provide two affordable homes on site.

6.9.2 Core Strategy Policy CS9 (Infrastructure Contributions) and the related Charging Schedule indicates that development that provides additional dwellings, or residential extensions over 100 square metres, should help deliver more sustainable communities by making contributions to the local infrastructure. The proposed development would be liable to this Community Infrastructure Levy (CIL).

7.0 CONCLUSION

7.1 The principle of residential development at this site within the development boundary of Broseley is acceptable in principle. The design and layout of the development, as amended, would ensure that protected trees are retained. The proposed design of the development would not adversely affect the character or appearance of the World Heritage Site or Severn Gorge Conservation Area. Impacts upon residential development would not be unacceptable. Detailed matters relating to tree protection, ground investigations in respect of contamination and stability, and other identified issues can be addressed by planning conditions. Matters relating to the provision of affordable housing and the management of open space on the site can be secured by a Section 106 agreement. Subject to satisfactory resolution of outstanding issues regarding the visibility splay that can be achieved, it is considered that the proposal can be accepted in relation to Development Plan policies and other material considerations, and that planning permission can be granted subject to conditions and a Section 106 agreement.

8. Risk Assessment and Opportunities Appraisal

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.

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.

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. Financial Implications

There are likely financial implications of 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 dependant on the scale and nature of the proposal. Local financial considerations are capable of being taken into account when determining this application – in so far as they are material to the application. The weight to be given to this issue is a matter for the decision maker.

10.0 BACKGROUND

10.1 Relevant Planning Policies

Policies material to the determination of the Application include:-

National Planning Policy Framework:

6 : Delivering a Wide Choice of High Quality Homes

7 : Requiring Good Design

8 : Promoting Healthy Communities

10 : Meeting the Challenge of Climate Change, Flooding and Coastal Change

11 : Conserving and Enhancing the Natural Environment

12 : Conserving and Enhancing the Historic Environment

Shropshire Council Core Strategy (February 2011):

CS3 : The Market Towns and Other Key Centres

CS6 : Sustainable Design and Development Principles

CS9: Infrastructure contributions

CS11 : Type and Affordability of Housing

CS17 : Environmental Networks

CS18 : Sustainable Water Management

SAMDev Plan:

MD2: Sustainable Design

MD3: Managing Housing Development

MD12: The Natural Environment

MD13: The Historic Environment

Supplementary Planning Documents:

Type and Affordability of Housing Supplementary Planning Document

Open Space Interim Planning Guidance (adopted January 2012)

Broseley Town Plan 2013-2026

10.2 Relevant Planning History

BR/APP/FUL/05/0665 Erection of three detached dwellings, land adjoining Top Bungalow, Refused 2005

Reasons: Not demonstrated how the development is in keeping with the site and surrounding so as not to harm the character and appearance of the area which is a Conservation Area and World Heritage Site; uniform layout and house types does not reflect the more mixed and informal character of development in the area; insufficient information to determine the stability of the land; insufficient information to assess whether reliable arrangements can be made to overcome the danger of migratory gas; adverse impact on trees on the site; adverse impact of first floor side windows on adjacent dwellings; insufficient information regarding how ground level changes are to be altered.

BR/APP/FUL/06/0793 Outline application (including means of access) for the erection of one two storey dwelling and one bungalow, The Top Bungalow, Refused 2006

Reasons: Insufficient information to determine the stability of the land; insufficient information to assess whether reliable arrangements can be made to overcome the danger of migratory gas; site is outside a settlement considered appropriate for new housing.

Appeal dismissed 2007

Reasons: Insufficient information relating to land stability and land contamination; unsustainable form of development.

14/00857/TCA To fell all Conifer trees within garden and bordering property covered by Severn Gorge Conservation Area, Top Bungalow, Calcutts Road, No objections, April 2014

11.0 ADDITIONAL INFORMATION

View online: <https://pa.shropshire.gov.uk/online-applications/simpleSearchResults.do?action=firstPage>

List of Background Papers - Planning Application reference 14/04740/FUL

Cabinet Member (Portfolio Holder) - Cllr M. Price

Local Member - Cllr Dr Jean Jones

Appendices

APPENDIX 1 - Conditions

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

1. The development hereby permitted shall be begun before the expiration of three years from the date of this permission.
Reason: To comply with Section 91(1) of the Town and Country Planning Act, 1990 (As amended).
2. The development shall be carried out strictly in accordance with the approved plans and drawings
Reason: For the avoidance of doubt and to ensure that the development is carried out in accordance with the approved plans and details.

CONDITION(S) THAT REQUIRE APPROVAL BEFORE THE DEVELOPMENT COMMENCES

3. No development shall take place until a scheme of foul drainage, and surface water drainage has been submitted to and approved in writing by the Local Planning Authority. The approved scheme shall be fully implemented before the development is occupied/brought into use (whichever is the sooner).
Reason: The condition is a pre-commencement condition to ensure satisfactory drainage of the site and to avoid flooding.
4.
 - 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

5. Other than in relation to works required to fulfil the requirements of this condition no development shall take place until:
- a scheme of intrusive site investigations for mine entries and shallow coal workings has been submitted in writing for the local planning authority;
 - the scheme has been undertaken;
 - a report of findings arising from the intrusive site investigations has been submitted for the approval of the local planning authority;
 - a scheme of treatment for the mine entries and for remedial works for the shallow coal working has been submitted in writing for the approval of the local planning authority;
 - the approved treatment and remedial works have been completed.

Reason: To ensure a safe development given the past mining uses in the area.

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

Reason: The site is known to hold archaeological interest and as such the information is required prior to commencement to ensure that any archaeology is recorded and taken into account in the development of the site

7. No development-related works shall commence, (including vegetation / site clearance, ground levelling and demolition, if relevant) and no equipment, materials or machinery will be brought onto the site, until a scheme has been submitted to the written satisfaction of the LPA to safeguard trees, woody shrubs and hedges to be retained on and adjacent the site.

The scheme shall include a Tree Protection Plan and Arboricultural Method Statement, based upon a final site layout plan and prepared in accordance with British standard 5837: 2012 - Trees in Relation to Design, Demolition and Construction. The Method Statement shall specifically include provision for the design and installation of the communal amenity area, where this intrudes into the root protection area of mature trees to the south-west of the site, so as to avoid causing damage to those trees.

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

8. All tree protection measures detailed in the approved Tree Protection Plan and Arboricultural Method Statement must be fully implemented as approved, to the written

satisfaction of the LPA, prior to commencement of development on site. All approved tree protection measures must be maintained throughout the duration of the development. Nothing shall be stored or placed in any area fenced in accordance with this condition and the ground levels within those areas shall not be altered or excavations made, without the prior written consent of the LPA.

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

9. a) No works associated with the development will commence and no equipment, machinery or materials will be brought onto the site for the purposes of said development until a tree planting scheme, prepared in accordance with British Standard 8545: 2014 Trees: from Nursery to Independence in the Landscape - Recommendations, has been submitted to and approved in writing by the LPA.

The approved planting scheme shall include:

- i) details of the trees and shrubs to be planted in association with the development, including species, locations or density and planting pattern, type of planting stock, size at planting, means of protection and support, planting period and date of completion, and measures for post-planting maintenance and replacement of losses;
- ii) details as relevant of the specification and location of the barriers to be installed prior to commencement of development (and / or any other measures to be taken), for the protection of ground reserved for the planting identified in a) above.

b) The approved tree planting scheme shall be implemented as specified and in full within the timescale agreed with the LPA.

If within a period of three years from the date of planting, any tree or shrub, or any tree or shrub planted in replacement for it, dies, is uprooted or removed, or, in the opinion of the LPA becomes seriously damaged or diseased, another tree or shrub of a similar specification to the original shall be planted at the same place during the first available planting season, unless agreed otherwise in writing with the LPA.

Reason: to ensure satisfactory tree and shrub planting as appropriate to enhance the appearance of the development and its integration into the surrounding area.

10. No development shall take place until details of the means of access, including the layout, construction and sightlines have been submitted to and approved by the Local Planning Authority. The agreed details shall be fully implemented before the development/use hereby approved is occupied.

Reason: To ensure a satisfactory means of access to the highway.

11. The new access road, footways, parking areas, highway surface water drainage and street lighting shall be fully implemented in accordance with details to be approved in writing by the Local Planning Authority, with the estate roads, footways, vehicle manoeuvring and turning areas constructed to at least base course macadam level and made available for use before the dwellings that they would serve are first occupied.

Reason: To ensure the provision of adequate means of infrastructure and access prior to occupation, in the interests of highway safety.

12. 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:
- The parking of vehicles of site operatives and visitors
 - Loading and unloading of plant and materials
 - Storage of plant and materials used in constructing the development
 - The erection and maintenance of security hoarding including decorative displays and facilities for public viewing, where appropriate
 - Wheel washing facilities
 - Measures to control the emission of dust and dirt during construction
 - 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.

13. Demolition or construction works shall not take place outside the following times:
- Monday to Friday 07:30hrs to 18:00hrs
 - Saturday 08:00hrs to 13:00hrs
 - Nor at any time on Sundays, bank or public holidays.

Reason: In the interest of the amenity of the occupants of surrounding residential properties.

14. Before work commences on the footings to the dwellings and garages details of their proposed finished ground floor levels relative to existing site levels shall be submitted to and approved in writing by the Local Planning Authority. The work shall be carried out in accordance with the approved details.

Reason: In the interests of the visual amenities of the conservation area and to safeguard neighbour amenity.

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

15. Prior to the above ground works commencing samples and/or details of the roofing materials and the materials to be used in the construction of the external walls shall be submitted to and approved in writing by the Local Planning Authority. The development shall be carried out in complete accordance with the approved details.
Reason: To ensure that the external appearance of the development is satisfactory.
16. Before the relevant parts of the work are commenced, details of roofing materials, including ridge materials and detailing, together with the method of ventilating the roof voids and the method of fixing these items, shall be submitted and approved in writing by the Local Planning Authority. Development shall be carried out in accordance with the agreed details.

Reason: To safeguard the character and appearance of the conservation area.

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

Reason: To safeguard the character and appearance of the conservation area.

18. Prior to the commencement of the relevant work details of all external windows and doors and any other external joinery shall be submitted to and approved in writing by the Local Planning Authority. These shall include full size details, 1:20 sections and 1:20 elevations of each joinery item which shall then be indexed on elevations on the approved drawings. All doors and windows shall be carried out in complete accordance with the agreed details.

Reason: To safeguard the character and appearance of the conservation area.

19. 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.

20. Prior to the first occupation of the dwellings details of three 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

21. Prior to the first occupation of the dwellings three artificial nests suitable for small birds such as robin, blackbird, tit species, sparrow and swallow shall be erected on the site.

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

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

22. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 2015 (or any order revoking and re-enacting that Order with or without modification), no development relating to schedule 2 part 1 shall be erected, constructed or carried out over any mine entry identified in the site investigation report required as part of condition 5 of this planning permission.

Reason: To maintain a safe development given the past mining use of the area.

23. The windows in the northeast elevation of the semi-detached dwelling adjacent to Calcutts Road shall be permanently glazed with obscure glass and shall thereafter be retained. No further windows or other openings shall be formed in that elevation.

Reason: To preserve the amenity and privacy of adjoining properties.

Informatives

1. 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.
2. The land and premises referred to in this planning permission are the subject of an Agreement under Section 106 of the Town and Country Planning Act 1990.
3. In determining this application the Local Planning Authority gave consideration to the following policies:
 - Central Government Guidance:
 - National Planning Policy Framework
 - Shropshire Core Strategy and saved Local Plan policies:
 - Shropshire Core Strategy:
 - Policy CS3 (The Market Towns and Other Key Centres)
 - Policy CS6 (Sustainable Design and Development Principles)
 - Policy CS9 (Infrastructure Contributions)
 - Policy CS11 (Type and Affordability of Housing)
 - Policy CS17 (Environmental Networks)
 - Policy CS18 (Sustainable Water Management)

Site Allocations and Development Management (SAMDev) Plan:

 - MD1 (Scale and Distribution of Development)
 - MD2 (Sustainable Design)
 - MD12 (Natural Environment)
 - MD13 (Historic Environment)
4. The application form states that the surface water drainage from the proposed development is to be disposed of via soakaways. However no details and sizing of the proposed soakaways have been supplied. As stated within the Design and Access

Statement, percolation tests and the sizing of the soakaways should be designed in accordance with BRE Digest 365 to cater for a 1 in 100 year return storm event plus an allowance of 30% for climate change. Full details, calculations, dimensions and location of the percolation tests and the proposed soakaways should be submitted for approval. Surface water should pass through a silt trap or catchpit prior to entering the soakaway to reduce sediment build up within the soakaway. If soakaways are not feasible, drainage calculations to limit the proposed discharge, for a range of 1 in 100 year plus 30% storm durations, to an equivalent existing run-off rate based on a rainfall intensity of 50mm/hr, plus 50% betterment, should be submitted for approval. The attenuation drainage system should be designed so that there will be no flooding of any property either within the proposed development or any other in the vicinity. There should be no discharge to a surface water body or sewer that results from the first 5mm of any rainfall event. Reason: To ensure that soakaways, for the disposal of surface water drainage, are suitable for the development site and to ensure their design is to a robust standard to minimise the risk of surface water flooding.

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. Reason: 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.

Although permeable surfacing is used on the driveways, where they slope towards the highway, the applicant should submit for approval a drainage system to intercept water prior to flowing on to the public highway Reason: To ensure that no surface water runoff from the new driveway runs onto the highway.

On the Pluvial Flood Map, the site is at risk of surface water flooding. The applicant should provide details on how the surface water runoff will be managed and to ensure that the finished floor level is set above any known flood level. Reason: To minimise the risk of surface water flooding.

If using water butts on site these must be monitored to ensure they do not overflow. Opening the tap to allow water to drain freely from the water butt is acceptable as this will act as to attenuate the flow of the surface water collected. It is recommended that the flow route from the water butt is determined to ensure this does not cause issues elsewhere on site.

Consent is required from the service provider to connect into the foul main sewer.

5. All species of bats found in the UK are European Protected Species under the Habitats Directive 1992, the Conservation of Species and Habitats Regulations 2010 and the Wildlife & Countryside Act 1981 (as amended).

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

Great Crested Newts are protected under the European Council Directive of 12 May 1992 on the conservation of natural habitats and of wild fauna and flora (known as the Habitats Directive 1992), the Conservation of Habitats and Species Regulations 2010 and under the Wildlife & Countryside Act 1981 (as amended).

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

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

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

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

6. General Information for the Applicant

Under the Coal Industry Act 1994 any intrusive activities, including initial site investigation boreholes, and/or any subsequent treatment of coal mine workings/coal mine entries for ground stability purposes require the prior written permission of The Coal Authority, since such activities can have serious public health and safety implications. Failure to obtain permission will result in trespass, with the potential for court action. In the event that you are proposing to undertake such work in the Forest of Dean local authority area our permission may not be required; it is recommended that you check with us prior to commencing any works. Application forms for Coal Authority permission and further guidance can be obtained from The Coal Authority's website at: <https://www.gov.uk/get-a-permit-to-deal-with-a-coal-mine-on-your-property>

7. Works on, within or abutting the public highway

This planning permission does not authorise the applicant to:

construct any means of access over the publicly maintained highway (footway or verge) or

carry out any works within the publicly maintained highway, or

authorise the laying of private apparatus within the confines of the public highway including any a new utility connection, or

undertaking the disturbance of ground or structures supporting or abutting the publicly maintained highway

The applicant should in the first instance contact Shropshire Councils Street works team. This link provides further details

<https://www.shropshire.gov.uk/street-works/street-works-application-forms/>

Please note: Shropshire Council require at least 3 months' notice of the applicant's intention to commence any such works affecting the public highway so that the applicant can be provided with an appropriate licence, permit and/or approved specification for the works together and a list of approved contractors, as required.

8. Advice from West Mercia Constabulary: The applicant should aim to achieve the Secured by Design (SBD) award status for this development. BD is a nationally recognised award aimed at achieving a minimum set of standards in crime prevention for the built environment, the scheme has a proven track record in crime prevention and reduction. The opportunity for crime to occur can be reduced by up to 75% if Secured By Design is implemented. The principles and standards of the initiative give excellent guidance on crime prevention through the environmental design and also on the physical measures. Details can be found at www.securedbydesign.com

Attention is drawn to Section 17 of the Crime and Disorder Act 1998 which clearly states. "It shall be the duty of each authority to which this section applies to exercise its various functions with due regard to the likely effect of the exercise of those functions of, and the need to do all that it reasonably can to prevent crime and disorder in its area".

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Committee and date

South Planning Committee

1 March 2016

Development Management Report

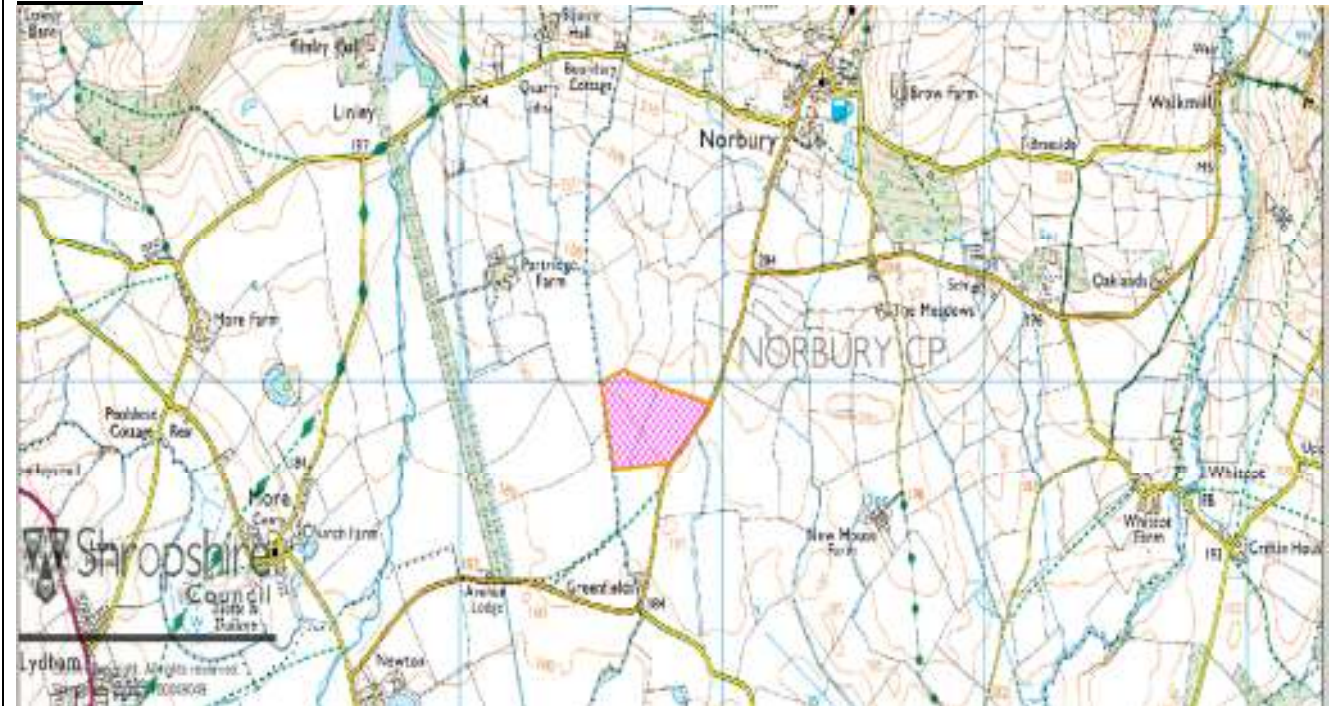
Responsible Officer: Tim Rogers

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

Summary of Application

Application Number: 14/05768/FUL	Parish:	Norbury Parish Council
Proposal: Change of use of agricultural land and existing barn to equestrian use; erection of stock building, enclosure of lean-to to existing barn, creation of lunge ring and manege and siting of temporary mobile home to be used as equestrian workers dwelling.		
Site Address: Land To The North Of Three Chimneys Cottage, Norbury, Shropshire		
Applicant: Penhaligon Stud		
Case Officer: Mark Lynch	email: planningdmc@shropshire.gov.uk	

Grid Ref:



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

REPORT

1 THE PROPOSAL

- 1.1 The proposed development comprises the change of use of a barn and associated agricultural land (7.7ha) to form an equestrian centre at a site near Norbury in south west Shropshire. The proposals also include the erection of a substantial stock building measuring 36m x 20m x 6.1m (ridge height), the provision of a ménage and lunge ring and provision of a mobile home to be used as temporary accommodation for an equestrian worker on the site. The existing barn is partially open sided and this will be enclosed and the barn converted to form four internal stables, a foaling area and a feed room.
- 1.2 The stock building will be constructed using a concrete base plinth with dark green coloured profiled metal panel elevations and roof on top of this plinth. The roof would incorporate rooflights. This building would provide six additional stalls, a wash bay and loose housing for foals and young stock.
- 1.3 The proposed ménage will measure 40m x 20m and will be surfaced using a mixture of sand and fibre enclosed by a 1.2m high post and rail fence. No floodlighting is proposed. The adjacent lunge ring will be circular with a diameter of 20m enclosed by a 3m high vertical boarded wall.
- 1.4 The proposed mobile home will have a floor area of 43 square metres and a three year temporary planning permission is sought. It is proposed that the applicants will occupy this accommodation. It will be sited to the rear of the existing hedgerow on the site to reduce its visual prominence.
- 1.5 Externally, the site will include a concrete-surfaced yard area to provide circulation space. A car parking area accommodating eight parking spaces is also proposed on the eastern side of the hedge. Additional tree planting is proposed on the eastern side of the hedge which will assist in softening any visual impact created by the development.

The Proposed Use

- 1.6 The applicant's website provides some helpful background information concerning the nature of the business. The submitted Planning Statement and the report on the need for a temporary worker's dwelling provide additional information.
- 1.7 Penhaligon Stud is a small private stud based in Newtown, Powys producing quality warmblood horses from the very best European bloodlines for dressage and jumping. The broodmares are carefully selected for their conformation, movement and temperament, and not least, their ability to produce top level competition offspring with the emphasis on breeding youngsters with quality but also a willingness to work. Mares currently foal at the applicant's home in Newtown where

there is on site supervision and foals stay on site until they are yearlings when they are taken to the application site to be turned out with other young horses.

- 1.8 The business breeds and rears competition horses, primarily for sale into the dressage and show jumping market. The business currently owns eight broodmares as well as yearlings and young stock. The business usually sells foals or young stock at ages three or four although horses can also be sold as foals. The nature of Stud enterprises is that horses are generally sold remotely without purchasers visiting the Stud to view a horse (i.e. they purchase a horse due to its bloodline) and as such the sale of horses also generates minimal vehicular trip generation with only the occasional pre-purchase visit and then a round trip to either deliver a horse or for the purchaser to collect a horse.
- 1.9 The applicants purchased the application site approximately 7 years ago as a base to keep and train young horses with a view to relocating and expanding the business in due course. To facilitate expansion of the business it is proposed to relocate the whole business to the application site enabling mares, foals and yearlings to all be kept at the same site and most importantly to provide a greater number of stables to enable the business to expand to meet growing demand for the Stud which can boast mares with very successful bloodlines. Expansion of the business would help to support the local rural economy and deliver sustainable economic growth in the local rural area. In particular expansion of the business would support a number of local businesses including:
- Veterinary surgeons;
 - Farriers;
 - Hay merchants;
 - Bedding suppliers;
 - Horse transport companies;
 - Feed suppliers;
 - Tack shops;
 - Farm machinery suppliers and repair specialists
- 1.10 The business currently employs the applicants as well as a number of riders (who will continue to be employed) to exercise and prepare horses for competition. The business has in part been operating from the application site for the past 7 years with young horses turned out and ridden by one of the riders at the site (foals are kept at the applicant's current property in Newtown). The applicants visit the site on a daily basis in addition to at least one rider on an average day. As the business grows it will be necessary to employ additional staff to help look after and run the stable yard further supporting the local rural economy.
- 1.11 The proposed development would provide sufficient stabling for the applicant's existing eight mares as well as yearlings and young stock whilst also allowing for an expansion in horse numbers to facilitate growth of the business.

2.0 SITE LOCATION/DESCRIPTION

- 2.1 The site is an existing agricultural holding located to the south west of the village of Norbury. The site is accessed via a gated trackway off the highway to the south leading up a slight incline with grazing land to either side. The access track is

bordered by stock proof fencing and leads to a compound and barn beyond a hedge line approximately 150m from the entrance gate. The field slopes gently towards the road and is open apart from a small number of oak trees close to the northern hedge line. The roadside boundary is formed by native species hedgerow.

- 2.2 The existing barn was approved under an agricultural prior notification application in May 2009 for the housing of sheep and farm implements. It is constructed of weather boarding on a blockwork plinth topped with a roof of corrugated mineral fibre sheets.
- 2.3 The site currently supports at least two horses, evident during the site visit carried out during September 2015.
- 2.4 The surrounding area is predominantly rural in character with isolated farms and occasional dwelling houses scattered across the landscape. Norbury village is located approximately 1km from the site entrance. The roads within the area do not have footpaths.

3.0 REASON FOR COMMITTEE DETERMINATION OF APPLICATION

- 3.1 The application is reported to the planning committee because the officer recommendation differs from that of the parish council. Following discussions with both the local elected member and the Area Planning Manager it has been agreed that the issues raised in this case raise issues that would warrant consideration by the South Planning Committee.

4.0 Community Representations

- 4.1 - Consultee Comments – comment.
4.1.1 Parish Council –Objection:

Norbury Parish Council –

Norbury village is a very rural ancient settlement and an area where development proposals should be considered very carefully. It is an AONB and Conservation Area. The NPPF, Localism Act and Core Strategy gives local communities more input into establishing general planning policies for the development and use of their neighbourhoods. The Localism Bill outlines the amount and types of development.

Norbury and Wentnor are a Cluster as set out in the SAMDev accepting a maximum of 15 new houses over the next 15/20 years. Six new homes increasing the village from 24 to 30 households have recently been developed in Norbury. Myndtown Combined Parish Council produced a Parish Plan in 2006. Further local consultation and updating took place in June 2014. For business development, Objective 1 seeks to ensure and maintain a business environment in which business within the parish can prosper with due consideration for the area's environmental characteristics thereby developing a system of "environmental proofing" when considering planning applications for business activities and is not in conflict with the natural beauty and character of the area. The majority of those

consulted were in favour of converting redundant buildings which are already in existence.

Site History

The applicant has owned the field for 6 years and prior planning approval was granted in May 2009 for the current agricultural building (09/00142) to be erected on a green field site, which this parish council had no objection to. The applicant has installed mains water sourced from and laid across a neighbouring field with the owner's permission. This almost resulted in a law suit due to the trench being open for two years until the land owner re-ploughed and made good the land at his expense. This does not demonstrate any real quality of workmanship or animal husbandry by inconveniencing others by the applicant.

Location

The proposed development is on a low plateau approximately half a mile from the end of Norbury village which has a definite outline to where it ends due to the historic stone walls and is also outside of the development boundary. If approval is granted this will extend the village envelope causing an influx of applications in fields along that route and also other isolated areas in the parishes. The proposed development has a visual impact on a green field site surrounded by farm land and directly adjacent to the Shropshire Hills AONB and conservation area. The proposed development will also extend westerly towards and within view of the nearby Linley Avenue of trees which is also within an AONB. National policies give the highest levels of protection to AONBs. The Shropshire Hills AONB Management Plan 2014-2019 has been adopted by Shropshire Council and contains further policies that are material planning considerations which the Core Strategy requires should be considered. Has an impact assessment been made for the site by the Shropshire Hills AONB and Conservation Authority?

As stated in the applicant's Planning Statement the site does benefit from the existence of mature trees and hedge; however, it does not state that these are ancient hedgerows and deciduous so that the site becomes very exposed to view during autumn and winter. Does the site benefit from an Ecology Survey and Report?

Sustainability

The parish council believes there is no shortage of existing larger housing stock with buildings and land to buy or rent that will be better suited for the business relocation between the proposed site and the established current location of the applicant's business in Newtown. The proposed development is in conflict with the rebalancing and sustaining of rural communities with poor infrastructure and does not constitute a need. The applicant has stated that he has received a quote of £59,000 to bring a power supply a considerable distance to the site; again on a green field site which will need considerable lighting due to the nature of the business. As the area is overlooked this raises the major issue of light pollution for those with south facing views.

Despite stating that some areas will not be illuminated this is in conflict with the reasons for the development to provide 24hr care and the need for a worker to live on site. The considerable sum to invest in electricity as well as the development costs would perhaps be better spent on purchasing a more suitable site that is already adapted and established. There is an existing established stud and race horse business less than 2 miles from the site.

The land is not suitable to the management of extensive large animal usage due to the very boggy nature of the ground. The applicant admitted horses cause more damage to ground than farm stock and that he had previously lost an animal on the site due to it being stuck in mud which was at least three feet deep.

Size and Scale of Development

This is of considerable size and extensive scope on a green field site and despite claims that the hedges will screen the buildings and mobile home the site is still in a very rural and isolated area that will be overlooked by those residing on higher levels. The applicant has stated that he intends to relocate all of his current business to the site as well as providing housing for himself and his workforce. The proposed development will dominate its surroundings, providing buildings that are of a differing size and scale to those that are in the immediate area.

Drainage and run-off will create an even greater burden where there are no immediate watercourses and within a low-lying area that is already vulnerable to flooding. Has the Environment Agency made a report?

A metal detector enthusiast has been examining the area recently. Have archaeology reports been made concerning the historic nature of the area?

The entrance has not been splayed to the size required under previous approval 09/00142 and the proposed increase in traffic to and from the site (parking for 8 vehicles as well as stock trailers/wagons) entering and exiting on to an unnamed rural road is of concern. Has the Highways Authority made a report?

Summary

The parish council considers the proposal to be unnecessary for the sustainability of the village and will not create jobs for those living in the locality. The proposed largescale development is outside of the village envelope and directly adjacent to an AONB and conservation area. It will set a precedent if approved for a pattern of development that is unsuitable to the area opens up every other field to cater for the siting of potential businesses. The proposed development does not conform to Core Strategy Policies CS5, 6, 16 and 17 and SAMDev Policies MD2, 7, 8, 11, 12 and 13 which make specific references to Shropshire Hills AONB. It is requested that the application be submitted to the Planning Committee for refusal.

4.1.2 SC Drainage - comment:

The following drainage details, plan and calculations could be conditioned if planning permission were to be granted:

1. Full details, calculations, dimensions and location of the percolation tests and the proposed soakaways should be submitted for approval and be designed in accordance with BRE Digest 365 to cater for a 1 in 100 year return storm event plus an allowance of 20% for climate change. (Alternatively, soakaways to be designed for the 1 in 10 year storm event might be acceptable provided details of flood routing to show what would happen in an 'exceedance event' above the 1 in 10 year storm event are submitted). Flood water should not be affecting other buildings or infrastructure.

Surface water should pass through a silt trap or catch pit prior to entering the soakaway to reduce sediment build up within the soakaway.

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.

2. If non permeable surfacing is used on the new access, driveway and parking area and/or the new access slopes toward the highway, the applicant should submit for approval a drainage system to intercept water prior to flowing on to the public highway.
3. Full details, plans and sizing of the proposed septic tank including percolation tests for the drainage field soakaways should be submitted for approval including the Foul Drainage Assessment Form (FDA1 Form). British Water 'Flows and Loads: 4' should be used to determine the number of persons for the proposed development and the sizing of the septic tank and drainage fields should be designed to cater for the correct number of persons and in accordance with the Building Regulations H2. These documents should also be used if other form of treatment on site is proposed.

Informative: As part of the SuDS, the applicant should consider employing measures such as the following:

- ' Water Butts
- ' Rainwater harvesting system
- ' Permeable surfacing on any new driveway, parking area/ paved area
- ' Attenuation
- ' Greywater recycling system
- ' Green roofs

4.1.3 Shropshire Fire and Rescue - Comment

As part of the planning process, consideration should be given to the information contained within Shropshire Fire and Rescue Service's 'Fire Safety Guidance for Commercial and Domestic Planning Applications'.

Specific consideration should be given to the following, regarding both the Stock Building and the enclosure of existing barn:

Enclosed Agricultural Buildings over 280m²

Access for Emergency Fire Service Vehicles

It will be necessary to provide adequate access for emergency fire vehicles. There should be sufficient access for fire service vehicles to within 45 metres of every point on the projected plan area or a percentage of the perimeter, whichever is less onerous. The percentage will be determined by the total floor area of the building. This issue will be dealt with at the Building Regulations stage of the development. However, the Fire Authority advises that early consideration is given to this matter. 'THE BUILDING REGULATIONS, 2000 (2006 EDITION) FIRE SAFETY APPROVED DOCUMENT B5' provides details of typical fire service appliance specifications.

Water Supplies for Firefighting Building Size:

It is important to note that the current Building Regulations require an adequate water supply for firefighting. If the building has a compartment of 280m² or more in area and there is no existing fire hydrant within 100 metres, a reasonable water supply must be available. Failure to comply with this requirement may prevent the applicant from obtaining a final certificate

These matters are subject to control under the Building Regulations rather than the Planning Act and a suitable informative will be added to any approval of planning permission.

4.1.4 Shropshire Council Affordable Homes – Comments

If the new residential unit is a temporary rural workers dwelling then no affordable housing contribution will be required.

4.1.5 Shropshire Council Ecology – Comments

No objections subject to conditions and informatives relating to nest box and bat box provision and the submission of a lighting plan.

4.1.6 - Public Comments:

One letter received objecting to the proposal. The following representations have been made:

Horses have been kept on this land for over three years without the need for a person living on site. This application is an attempt over time to gain permanent residence in a conservation area and AONB where planning consent is notoriously difficult to obtain for housing. There is no main drainage or facilities for sewage

disposal, nor other main services. In due course an application will be made to turn a barn into a dwelling and the final objective achieved through the back door. This is in the middle of an agricultural area and will not enhance the beauty of the area.

5.0 THE MAIN ISSUES

The main planning issues concern the following:

- Principle of development
- Siting, scale and design of structure
- Visual impact and landscaping
- Highway safety
- Protected species
- Drainage and flood risk
- Heritage impact

6.0 OFFICER APPRAISAL

6.1 Principle of Development

- 6.1.1 The determination of a planning application is to be made pursuant to section 38(6) of the Planning and Compulsory Purchase Act 2004, which is to be read in conjunction with section 70(2) of the Town and Country Planning Act 1990. Section 38(6) requires the local planning authority to determine planning applications in accordance with the development plan, unless there are material circumstances which 'indicate otherwise'. Section 70(2) provides that in determining applications the local planning authority "shall have regard to the provisions of the Development Plan, so far as material to the application and to any other material considerations."
- 6.1.2 The Development Plan consists of the adopted Shropshire Core Strategy (March 2011) and the adopted Site Allocations and Management of Development (SAMDev) Plan (2015). The SAMDev Plan has now replaced all of the previously saved policies of the South Shropshire Local Plan.
- 6.1.3 The issue of principle, therefore, concerns the compatibility of the proposed development with the planning policy framework and, in particular, consideration of whether or not it constitutes sustainable development that should be granted planning permission. The proposed development will be considered against these policies in more detail in this section of the report.
- 6.1.4 The site lies within the open countryside where new development will be strictly controlled in line with Policies CS5 of the adopted Shropshire Core Strategy and MD1, MD7a and MD7b of the SAMDev Plan. These policies support new economic and certain forms of residential development in the rural areas where they improve the sustainability of rural communities by bringing local economic and community benefits. In particular, this applies where they relate to small scale new economic development diversifying the rural economy and dwellings to house agricultural, forestry and other essential countryside workers and other affordable housing/accommodation to meet local needs in accordance with national planning

policies and Policies CS11 and CS12 of the Core Strategy. Other development that will be appropriate (subject to scale and impact) includes agricultural, horticultural, forestry and mineral related development. Policies CS16 and CS17 support in principle the establishment of sustainable rural tourism, leisure and recreational proposals requiring a countryside location.

- 6.1.5 Policy MD1 of the SAMDev Plan establishes a development hierarchy where new development is to take place across the lifetime of the Plan within the most sustainable locations. In the rural areas, a series of Community Hubs and attendant Community Clusters have been identified where new development will be concentrated. The villages of Wentnor and Norbury within Myndtown Combined Parish are a Community Cluster where development by infilling and conversions may be acceptable on suitable sites. The housing guideline for the Cluster is around 25 additional dwellings over the period to 2026. Outside of these settlements, new development may also be acceptable in specific circumstances.
- 6.1.6 Policy MD7b of the SAMDev is concerned with new development in the rural areas that is not residential in nature. It states that planning applications for agricultural development will be permitted where it can be demonstrated that the development is:
- a. Required in connection with a viable agricultural enterprise and is of a size/ scale and type which is consistent with its required agricultural purpose and the nature of the agricultural enterprise that it is intended to serve;
 - b. Well designed and located in line with CS6 and MD2 and where possible, sited so that it is functionally and physically closely related to existing farm buildings; and,
 - c. There will be no unacceptable impacts on environmental quality and existing residential amenity.
- 6.1.7 The enterprise is not entirely agricultural in nature but it is an equestrian business that requires a countryside location and the criteria set out in this policy are considered to be helpful in the assessment of the proposal.
- 6.1.8 The proposal also includes a temporary dwelling to accommodate an equestrian worker on the site. Policy MD7a is concerned with new dwellings in the open countryside beyond the identified settlements in MD1. Such development will be strictly controlled with few exceptions. One exception relates to dwellings to house essential rural workers.
- 6.1.9 The development is intended to facilitate the relocation of the existing equestrian business from its current base near Newtown in Powys to this site in due course. The plan will allow time to assess the viability of the scheme before committing additional resources to the planned relocation. The enterprise has a need to be located within the rural area, being the type of operation normally associated with countryside locations. In respect of the equestrian business, it is considered to be consistent with Policies CS5 and MD7b and the principle of establishing a new equestrian development in this rural location is appropriate. The temporary dwelling and the impact of the overall development in respect of design, scale, visual

effects, highway safety and so forth also need to be considered in the planning balance and these are assessed separately below.

6.2 Siting, scale and design of development

- 6.2.1 The application site is located to the southwest of Norbury within the open countryside and close to the edge of the Shropshire Hills AONB. The site is used for the grazing of horses associated with an established equestrian business based at Newtown, Powys and currently comprises an existing barn and grazing land. The proposals include altering the existing barn by enclosing its open sides to form four new stables, a foaling area and a feed room. A new stock building measuring 36m x 20m x 6.1m (ridge height) is planned at the rear of the site hub. It will be constructed using a concrete base plinth with green coloured profiled metal panel elevations on top of this plinth. This building will provide six additional stalls, a wash bay and loose housing for foals and young stock.
- 6.2.2 Close by is proposed a ménage and a lunge ring. The proposed ménage will measure 40m x 20m and will be surfaced using a mixture of sand and fibre enclosed by a 1.2m high post and rail fence. No floodlighting is proposed. The adjacent lunge ring will be circular with a diameter of 20m enclosed by a 3m high vertical boarded wall.
- 6.2.3 In addition, a mobile home to be used as temporary accommodation for three years by an equestrian worker on the site is also proposed measuring 43 square metres in floor area. The application indicates that this will be occupied by the applicants and it will be located to the rear of the existing hedgerow within the site.
- 6.2.4 Externally, the site will include a concrete-surfaced yard area to provide circulation space. A car parking area accommodating eight parking spaces is also proposed within the main compound area.
- 6.2.5 The key consideration here concerns the scale of development given its relatively sensitive location. The Shropshire Hills AONB boundary lies approximately 1km to the north of the site and the impact of the development upon the AONB is a material planning consideration. The largest building proposed is the stock building. The dimensions are stated above and its size, design and use of construction materials are all similar to a typical livestock building found within the open countryside. It will be located to the rear of the existing farm building which is to be altered by enclosing the existing open face on the western side. It will not be increased in size and its impact will be no more significant as a result of the proposed alterations.
- 6.2.6 The ménage will be located to the southern side of the stock building and although covering 800 square metres, its visual impact will be relatively low. Its surface will be level with the existing and it will be bounded by a low level fence not exceeding 1.2m in height. The associated lunge ring will be more substantial in that the height of its walls will be 3m. However, the lunge ring will be located on the private side of the existing hedge which is of a similar height. It will be possible to impose a planning condition requiring the height of the hedge to be maintained at this height as a minimum.

- 6.2.7 The proposed mobile home will also be located on the private side of the hedge, thereby minimising its impact on the local area.
- 6.2.8 There are no public footpaths traversing the site and those that do exist further to the north and south are not affected by the development proposed due to a combination of physical separation and intervening landscape features.
- 6.2.9 The car park is proposed on the public side of the existing hedge and has the potential to intrude in views from the public road. However, the surface level of the car park will be level with the existing field and additional tree planting is proposed which will further mitigate any potential impact.
- 6.2.10 It is considered that the siting, scale and design of the proposed development is appropriate to this rural area and is consistent with Core Strategy Policies CS5 and CS6 and SAMDev Plan Policy MD2.

6.3 Visual impact including impact upon the AONB

- 6.3.1 The site is located within the open countryside but its degree of prominence when viewed from public vantage points is tempered by the fact the site lies on the crest of the slope and the majority of the built form will be positioned on the private side of an existing mature native species hedge, which is to be retained. It is also situated approximately 150m back from the public road to the east. It is unlikely to be visible to any significant degree. There is a public footpath approximately 1.5km to the north on elevated land. However, there are numerous landscape features in the intervening landscape such as trees, hedges and undulations which affect views towards the application site. The largest structures on the site are the stock building and existing barn; both of which have been designed to reflect the style of typical agricultural buildings found in rural areas.
- 6.3.2 The Parish Council has commented that the site lies within the Shropshire Hills Area of Outstanding Natural Beauty and it should not be permitted on the basis that it will have an adverse impact upon the AONB. The potential impact of the development upon the AONB is a material planning consideration to which the local planning authority must have regard in its assessment of the proposals.
- 6.3.3 The explanatory text to Policy CS5 informs us there will be areas of the countryside where development will need to pay particular regard to landscape character, including the Shropshire Hills AONB. Policy MD12 of the SAMDev Plan concerns new development that affects the natural environment. It lends support to proposals which contribute positively to the special characteristics and local distinctiveness of an area, particularly in the Shropshire Hills AONB, Nature Improvement Areas, Priority Areas for Action or areas and sites where development affects biodiversity or geodiversity interests at a landscape scale, including across administrative boundaries.
- 6.3.4 The AONB Management Plan has been consulted and it transpires that the site is not located within the AONB boundary. It lies to the south of the AONB boundary,

which is on elevated land approximately 930m away to the north. Due to the character of the landscape in the area, it is unlikely that the proposed development will have an adverse impact upon the AONB or on other visual amenities in the area. Consequently, the proposed development, subject to appropriate materials and landscaping, would be consistent with Core Strategy Policy CS5 and SAMDev Plan Policy MD12.

6.4 Need for an essential workers dwelling

6.4.1 The proposal includes provision of a temporary dwelling for an essential rural worker in the form of a mobile home. Planning permission is sought for a three year temporary period. Paragraph 55 of the Framework states that local planning authorities should avoid new isolated homes in the countryside unless there are special circumstances which would include the essential need for a rural worker to live permanently at or near their place of work in the countryside. It is incumbent upon the applicant to demonstrate that an essential need exists, even for a temporary dwelling.

6.4.2 The applicant has submitted a supporting statement entitled “A Report on the Need for a Temporary Rural Worker’s Dwelling” by the Equine Consultancy Group. This sets out the case for the proposed dwelling. In summary, the following facts support the case for a temporary rural worker’s accommodation on the site:

- There is approximately 7.7 hectares (18.9 acres) of land at the application site which is owned by the applicants and available to the business. This is currently sufficient land although there is the potential to purchase more land nearby.
- At the time of writing, the applicants have twenty two horses in total. This includes eight broodmares. They also have yearlings and young stock. In addition to this they have one hunter and one retired companion horse.
- The current business employs the applicants, a rider and his assistant and a further advanced event rider who prepares the horses for competition. It also employs riders to exercise the younger horses on a daily basis.
- There are no permanent dwellings associated with the property and no dwellings in the immediate vicinity which are available or suitable to serve the needs of the business, despite the applicants looking for the past seven years.
- Mares foal at the property at Newtown where there is on site supervision, and foals stay on site until they are yearlings, when they are then taken to the application site to be turned out with other young horses. The business has operated from the application site for some six years, the applicants having to travel a forty mile round trip every day to check and care for their stock.
- The current property where the applicants reside, and where the breeding operation is located is limiting the business growth as it has insufficient land and buildings and additional development is not possible given the proximity to a Grade II Listed house and the flood plain. In addition, the local road network is too dangerous to safely exercise young horses.

- An essential need is more likely to exist where circumstances requiring the prompt attention of a skilled worker could occur outside of normal working hours.
- The action of foaling is an extremely critical period for the health and welfare of mare and foal. An essential functional need is also generated throughout the year in the keeping of broodmares, foals and other young stock.
- Horses are unpredictable; they all react differently to different situations. It is particularly those situations that are unpredictable that give rise to the need for twenty-four hour supervision.
- Horses can easily become cast, or 'stuck' on their backs, more often when stabled, but can happen when a horse lies down or rolls in the field too close to a wall, hedge or fence. This is a potentially fatal emergency situation and needs rapid human intervention, requiring two people.
- There have been occasions where the applicants have had to stay overnight at the site to deal with injured or sick horses and a number of emergency situations have occurred when the applicants were absent resulting in serious welfare situations.
- In general terms, a good stockman living on site will often notice subtle behavioural changes that often mean that either something is wrong, or that something out of the ordinary is about to happen.
- No guidance is provided within the NPPF as to the meaning or interpretation of 'permanent', however it is considered that for there to be a permanent need, the business enterprise which generates that need should be capable of being viable and have a reasonable prospect of being sustainable in the long term.
- The applicants are not finding it cost effective to travel between places, and more importantly, the welfare of the horses can suffer. For these reasons the proposed dwelling is essential for the business to succeed and grow in the long run.

6.4.3 The case has been independently considered by Reading Agricultural Consultancy (RAC) (commissioned by the Council) with regard to the case made for essential need. RAC considers an 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/her ability to rectify the situation.

6.4.4 RAC accepts that 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 requires anyone responsible for an animal to take reasonable steps to ensure that the animal's needs are met and its welfare assured. In this case the duty of care for any horses stabled rests with the applicants.

6.4.5 In 2009 the equine industry and welfare organisations produced revised guidelines for the welfare of all horses, ponies and donkeys which states: "sufficient staff must

be provided at all times to ensure proper, regular and timely attention to all horses held.”

- 6.4.6 The ECG report that accompanies the application sets out a comprehensive list of the reasons why it is essential for staff to live on the site. RAC agrees with these insofar as ensuring the welfare of horses is not compromised; all as set out under 6.4.2 above.
- 6.4.7 These activities are currently carried out at the home site near Newtown where there is a clear and established essential need for worker’s accommodation. RAC were concerned initially that there was no confirmation that the applicants intend to move wholly to the application site. Furthermore, the lack of any financial information such as business accounts demonstrating that the business is capable of sustaining itself in the longer term was also of concern.
- 6.4.8 The applicants provided additional information as a result and RAC considered this further. In summary, it was agreed that there are horses kept at both sites although the inability of the applicant to confirm how many are kept at the application site remains perplexing. The applicants confirmed their intention to relocate the entire business to Norbury from Newtown and RAC accept that the proposed move of the entire operation to the land north of Three Chimneys Cottage would have the same essential need as that at the home site.
- 6.4.9 The applicant has provided confidential financial information that demonstrates it is a profitable business. However, this information would not meet the test of sustainable development if used to support an application for a permanent dwelling. However, this application is only for a temporary dwelling. What the applicant has failed to provide is a forecast budget to show that at the end of the three year period the level of profit would meet the cost of all labour both employed and notional labour charges for the applicant, return on capital invested and build costs. This remains a concern even for a well-established business seeking to relocate. However, in respect of the essential need element the additional information provided confirms that the applicant intends to move (re-locate) the whole operation to a new site and that in order to achieve that there would be an essential need for someone to be resident on site.
- 6.4.10 Further accountancy information that addresses the RAC concerns has been received from the applicant. This information is commercially sensitive and the applicant has requested that it be treated as confidential. It has been reviewed by RAC who have confirmed that the budgets for 2015/16 and 2016/17 show satisfactory projected net profits. As this application is for a temporary dwelling it is considered that these projections can be accepted. It is expected that over the three year temporary period for the mobile home that the net profits set out in the forecast would be met. However, if this does not happen then it may indicate that the enterprise is not viable. In that case, there would be a fundamental obstacle to granting a future planning permission for a permanent dwelling on the site.

6.5 Highway safety implications

- 6.5.1 Core Strategy policy CS6 seeks to secure safe developments. In the context of highway safety this requires the access and local road network to be capable of safely accommodating the type and scale of traffic likely to be generated. The proposals will utilise an existing track that serves the site direct from the public highway through a gated entrance set back from the edge of the carriageway. The verge along this side of the road is approximately 2m deep allowing relatively good levels of visibility in each direction along the road (approximately 100m to the south east and significantly more to the north east)). The hedgerow to either side of the access is set back behind the verge and is maintained at a low height and is not considered to impinge on sight lines to an unreasonable extent. It is proposed to surface the track (where it is not already tarmacked) with stone. Application of national visibility standards of 2.4m x 215m for a road subject to the 60mph national speed limit would result in a substantial degree of hedgerow removal, which would harm the character and appearance of the local area. The use is likely to be a relatively low traffic generator and the road is comparatively lightly trafficked. Existing visibility in both directions is reasonably good and is considered to be adequate, all matters considered, in this particular case.
- 6.5.2 Parking is to be provided within the site to meet the needs of the business and amounts to eight parking spaces. A new mixed hedge with post and rail fence is proposed around the north and east boundaries of the car park with new tree planting beyond to the east. The access arrangements, including the degree of visibility, and parking arrangements are all considered to be adequate to serve the development.

6.6 Protected species

- 6.6.1 The Framework places high importance on protection of biodiversity interests and new development should minimize impacts on biodiversity and the natural environment. Planning permission should be refused where significant harm from a development on such interests cannot be avoided. This is reflected in Policies CS6 and CS17 of the Core Strategy and MD2 and MD12 of the SAMDev Plan.
- 6.6.2 The site is not located within or adjacent to a protected area or other environmental asset and no European Protected Species are likely to be directly affected by the proposals. The Council's Ecologist has commented on the scheme and recognises an opportunity to enhance the biodiversity interests of the area through the development. This amounts to provision of bat boxes, bird nesting boxes and submission of a lighting scheme to ensure the final scheme is not harmful to the local bat population. All of these may be secured through planning conditions and the scheme is, therefore, considered to be in accordance with the above policies.

6.7 Drainage and Flood Risk

- 6.7.1 The Framework and the adopted development plan (Policy CS18) are both concerned with ensuring new developments do not cause drainage or flooding problems. The Council's Flood Team have commented on the scheme and have no objections subject to submission of details of the drainage scheme for the site for

approval prior to commencement of development. There is, therefore, no objection to the proposal on drainage grounds.

6.8 Heritage impact

6.8.1 The Parish Council has objected on the basis that the development proposal is likely to have an adverse impact upon the Norbury Conservation Area, a designated heritage asset. The Framework requires developers to describe the significance of any heritage assets affected, including any contribution to their setting. Core Strategy policy CS6 requires new development to conserve and enhance the historic environment. Insofar as the Framework's requirements are concerned, the applicant has not provided any information in respect of potential impact upon the conservation area.

6.8.2 However, the application site is neither located within nor adjacent to the Norbury Conservation Area. In fact, the boundary of the conservation area is located approximately 800m away from the site to the north east "as the crow flies". The intervening landscape undulates and contains a number of hedges, all of which combine to obscure views of the site from the conservation area. The application site cannot be viewed in the same context as the conservation area and it is considered, therefore, that the proposed development would not have any detrimental effect upon the heritage asset.

6.9 Other Matters

6.9.1 Several other matters have been raised in both the representations and consultation responses that are not covered in the above assessment. The Parish Council has made a number of other points that require a response.

6.9.2 Firstly, the issue concerning the trench on the adjacent owner's land is a private matter and is not relevant to consideration of this scheme. Similarly, comments about the applicant's alleged personal attitude are not relevant either.

6.9.3 The site is separate from the village and is not viewed in context with it. It is not considered it will extend the village envelope and there is no evidence that its approval will cause an influx of applications in fields along that route and also other isolated areas in the parishes. Applications have to be considered on their individual merits and against the provisions of the development plan. Approval of this scheme will not, for example, open the way for new residential development in the open countryside beyond the village limits.

6.9.4 There is no evidence that other sites are available, suitable and affordable for this form of development within the locality. The matter of potential light pollution will be addressed through a suitable condition.

6.9.5 The applicant has confirmed that the ground conditions at the site are suitable for the keeping of animals. The previous use of the site was for the keeping of livestock associated with the prior notification approval for the existing stock building in 2009. There is no evidence that suggests the site is no longer suitable for livestock.

6.9.6 The previous scheme included a plan showing a splayed entrance but no condition was added to the decision specifically requiring the splays to be implemented. The current proposals show that a 2.4m x 214m splay in each direction can be provided. However, this is likely to result in loss of a substantial length of existing boundary hedge which would be harmful to the character and appearance of the area. As reasoned above, there needs to be a degree of balance brought into the assessment. The use is likely to generate low levels of traffic movements and the current visibility in both directions is reasonably good. The road is also comparatively lightly trafficked. It is considered that to insist on the national standard of visibility splays in this instance would be both unnecessary and result in an over-engineered solution leading to removal of the hedge and thereby harming the character and appearance of the area.

6.9.7 The comments made by the Fire Authority are covered by the Building Regulations and an appropriate informative for the applicant's benefit will be added to any grant of planning permission.

7.0 CONCLUSION

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

7.1.2 The National Planning Policy Framework provides for a presumption in favour of sustainable development. However this must be balanced against the impact that a development scheme will have on the character of an area and its surroundings. The 'presumption in favour of sustainable development' entails weighing the benefits of the scheme against those impacts.

7.1.3 The proposal for a new equine centre with ancillary essential worker's accommodation (for a temporary three year period) is considered to be appropriate for a countryside setting. The scale and visual impact of the development is considered acceptable subject to agreeing materials and additional landscaping before development commences.

7.1.4 In conclusion, the proposed development is considered to be in accordance with the provisions of the adopted Development Plan and constitutes sustainable development.

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

National Planning Policy Framework:

The following paragraphs are considered to be relevant:

7, 14, 17, 28, 54, 55, 56, 58 and 109.

Shropshire Adopted Core Strategy:

CS1 Strategic Approach

CS5 Countryside and Green Belt

CS6 Sustainable Design and Development Principles

CS13 Economic Development, Enterprise and Employment

CS17 Environmental Networks

CS18 Sustainable Water Management

Shropshire Adopted SAMDev Plan:

MD1 Scale and Distribution of Development

MD2 Sustainable Design

MD4 Managing Employment Development

MD7a Managing Housing Development in the Countryside

MD7b General Management of Development in the Countryside

MD12 Natural Environment

RELEVANT PLANNING HISTORY:

09/00142/AGR - Erection of an agricultural building (for livestock). Approved 8th May 2009

11. Additional Information

View details online:

<https://pa.shropshire.gov.uk/online-applications/applicationDetails.do?activeTab=dates&keyVal=NNBQE4TDK0800>

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

Planning Statement

Cabinet Member (Portfolio Holder)

Cllr M. Price

Local Member

Cllr Mrs Charlotte Barnes

Appendices

APPENDIX 1 – Planning Conditions and Informatives

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STANDARD CONDITIONS

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

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

2. The development shall be carried out strictly in accordance with the following approved plans and drawings:
 - I. 765/14/1 – Site location plan dated August 2014
 - II. 765/14/4 – Proposed site plan dated July 2014
 - III. 765/14/7 – Proposed alterations to the barn dated July 2014
 - IV. 765/14/8 – Proposed stock building dated July 2014
 - V. 765/14/10 – Proposed mobile home dated July 2014
 - VI. 765/14/11 – Proposed fencing details dated July 2014

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

CONDITION(S) THAT REQUIRE APPROVAL BEFORE THE DEVELOPMENT COMMENCES

3. No development shall be commenced until full details of landscape works have been submitted to and approved in writing by the Local Planning Authority. These details shall include:
 - i. Planting plans;
 - ii. Written specifications (including cultivation and other operations associated with plant and grass establishment);
 - iii. Schedules of plants, noting species, planting sizes and proposed numbers / densities where appropriate; and
 - iv. Implementation timetables.
 - v. Details of existing trees and hedges to be retained, which shall include retention of the hedge adjacent to the lunge ring and mobile home at a minimum specified height.

Reason: These details are required prior to the commencement of development to ensure the provision of amenity afforded by appropriate landscape design.

4. No development shall commence on site in connection with the approval until samples of materials including colour finishes for the external surfaces of the development have been submitted to and approved in writing by the Local Planning Authority and the development shall be carried out in accordance with the approved materials.

Reason: These details are required before the commencement of development to ensure the materials are appropriate in the interests of visual amenity.

5. Development shall not commence on site until full details of both surface and foul water drainage have been submitted to and approved in writing by the Local Planning Authority. These details shall include plans, dimensions, location and sizing of any proposed septic tank and soakaways including percolation tests for the drainage fields should be submitted for approval including the Foul Drainage Assessment Form (FDA1 Form). British Water Flows and Loads: 3 should be used to determine the number of persons for the proposed development and the sizing of the septic tank and drainage fields should be designed to cater for the demands of the development. The approved drainage scheme shall be carried out before the development is occupied or otherwise brought into use.

Reason: These details are required before the commencement of development to ensure that adequate drainage is provided in the interests of safeguarding the environment from potential sources of pollution.

Notes:

i. Consent or an exemption certificate is required as appropriate from the Environment Agency for discharging treated foul effluent into the watercourse. However, if the ditch/watercourse is occasionally dry, the treated foul effluent should discharge into a drainage field.

ii. If using water butts on site these must be monitored to ensure they do not overflow. Opening the tap to allow water to drain freely from the water butt is acceptable as this will act as to attenuate the flow of the surface water collected. It is recommended that the flow route from the water butt is determined to ensure this does not cause issues elsewhere on site.

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

6. The car parking area shown on the approved site plan shall be laid out and be made available for use before the approved development is first brought into use.
Reason: - In the interests of highway safety.
7. All hard and soft landscape works shall be carried out in accordance with the approved details. The works shall be carried out prior to the occupation of any part of the development or in accordance with the timetable approved in writing by the Local Planning Authority. Any trees or plants that, within a period of five years after planting, are removed die or become seriously damaged or defective, shall be replaced with others of species, size and number as originally approved, by the end of the first available planting season.

Reason: To ensure the provision, establishment and maintenance of a reasonable standard of landscape in accordance with the approved designs.

8. 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 control potential light pollution in the interests of local visual amenity and to minimise disturbance to bats, a European Protected Species.

9. A total of 1 woodcrete bat box suitable for nursery or summer roosting for small crevice dwelling bat species shall be erected on the site prior to first use of the building hereby permitted. All boxes must be at an appropriate height above the ground with a clear flight path and thereafter be permanently retained.

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

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

10. The buildings and equestrian land hereby approved shall be used only in connection with the applicant's equestrian usage and shall not be used for other commercial or livery purposes.

Reason: - To prevent a more intensive use being introduced in the interests of protecting the character and appearance of the countryside and highway safety having regard to the network of country lanes within the locality.

11. The occupation of the temporary dwelling hereby permitted shall be limited to a person or persons solely or mainly, or last working at the equestrian business within the application site or in agriculture (as defined in Section 336 of the Town and Country Planning Act 1990 (as Amended)), in the locality or to the spouse, widow or widower of such a person and to any resident dependents.

Reason: - The site is located in the open countryside and the development has been permitted solely because it is required to meet the essential need for a rural worker to live at or near to their place of work in the countryside.

12. The permission for the temporary worker's dwelling hereby granted shall expire three years from the date of this permission. Thereafter the building/mobile home hereby permitted shall be removed and the land restored to its former condition on or before the expiry of three years, in accordance with a scheme of work to be submitted to and approved in writing by the local planning authority.

Reason: - The permission is granted on a temporary basis to enable the Local Planning Authority to assess the viability of the business prior to the assessment of the need for a permanent dwelling in three years' time.

INFORMATIVES

Informative 1

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

All clearance, conversion and demolition work in association with the approved scheme shall be carried out outside of the bird nesting season which runs from March to September inclusive. Note: If it is necessary for work to commence in the nesting season then a pre-commencement inspection of the vegetation and buildings for active bird nests should be carried out. If vegetation cannot be clearly seen to be clear of bird's nests then an experienced ecologist should be called in to carry out the check. Only if there are no active nests present should work be allowed to commence.

Informative 2

Where possible trenches should be excavated and closed in the same day to prevent any wildlife becoming trapped. If it is necessary to leave a trench open overnight then it should be sealed with a closefitting plywood cover or a means of escape should be provided in the form of a shallow sloping earth ramp, sloped board or plank. Any open pipework should be capped overnight. All open trenches and pipework should be inspected at the start of each working day to ensure no animal is trapped.

Informative 3

Badger setts and the access to the sett are expressly protected from killing, injury, taking, disturbance of the sett, obstruction of the sett etc by the Protection of Badgers Act 1992. No works should occur within 30m of a badger sett without a Badger Disturbance Licence from Natural England in order to ensure the protection of badgers which are legally protected under the Protection of Badgers Act (1992).

Informative 4

Access for Emergency Fire Service Vehicles.

It will be necessary to provide adequate access for emergency fire vehicles. There should be sufficient access for fire service vehicles to within 45 metres of every point on the projected plan area or a percentage of the perimeter, whichever is less onerous. The percentage will be determined by the total floor area of the building. This issue will be dealt with at the Building Regulations stage of the development. However, the Fire Authority advises that early consideration is given to this matter. The Building Regulations 2000 (2006 Edition) Fire Safety Approved Document B5 provides details of typical fire service appliance specifications.

Informative 5

Water Supplies for Firefighting Building Size

It is important to note that the current Building Regulations require an adequate water supply for firefighting. If the building has a compartment of 280m² or more in area and there is no existing fire hydrant within 100 metres, a reasonable water supply must be available. Failure to comply with this requirement may prevent the applicant from obtaining a final certificate.

Informative 6

As part of the SuDS, and to ensure that, for the disposal of surface water drainage, the development is undertaken in a sustainable manner, the applicant should consider employing measures such as the following:

Water Butts

Rainwater harvesting system

Permeable surfacing on any new driveway, parking area/ paved area

Attenuation

Greywater recycling system

Green roofs



Committee and date

South Planning Committee

1 March 2016

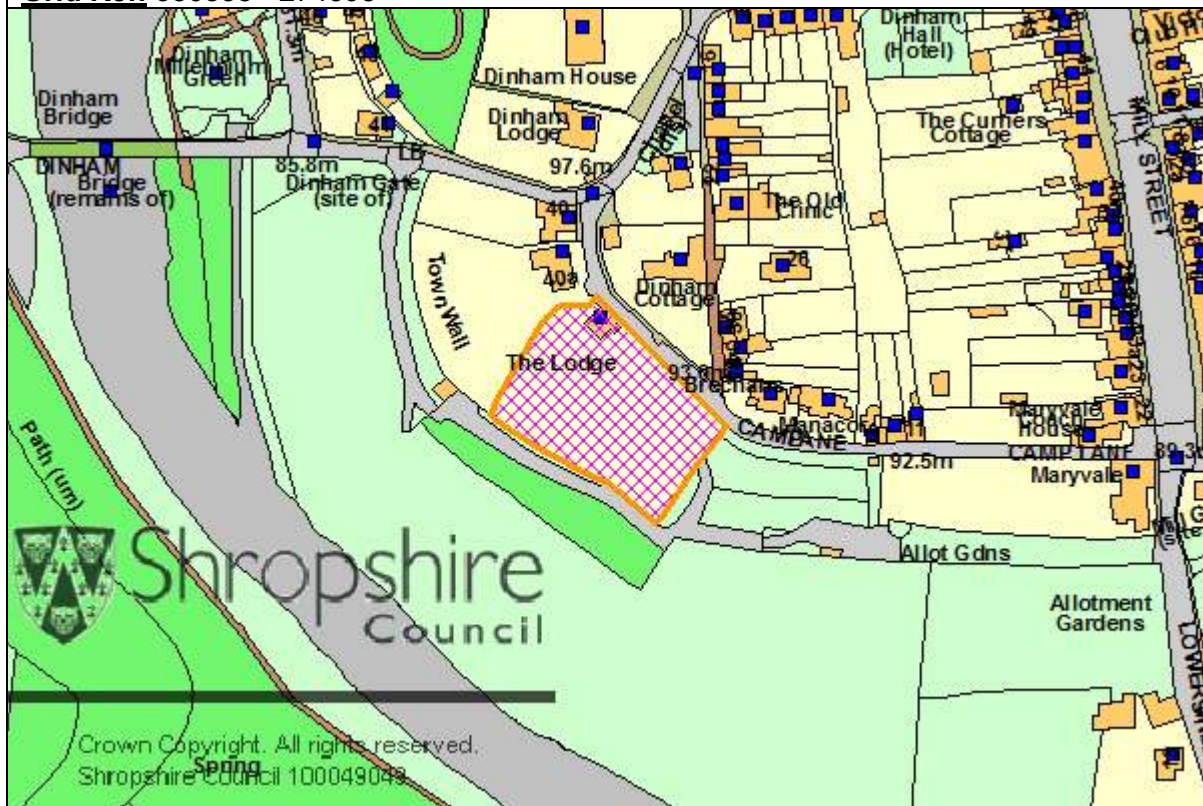
Development Management Report

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

Summary of Application

Application Number: 15/01819/FUL	Parish:	Ludlow Town Council
Proposal: Erection of replacement dwelling following demolition of existing		
Site Address: The Lodge Camp Lane Ludlow Shropshire SY8 1EQ		
Applicant: Mr R And Mrs A Cundall		
Case Officer: Chris Hammersley	email: planningdmc@shropshire.gov.uk	

Grid Ref: 350858 - 274398



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

- 1.1 The proposal is to build a replacement house. The site is located within Ludlow Conservation Area, situated on the edge of the development boundary. A structural report commissioned on behalf of the applicant on the existing dwelling indicates that there is evidence of cracks that have been developing in recent years, although these cracks are not currently of great structural concern. The existing house is built into the stone roadside wall. This has long term implications for damp ingress into the house due to the water from the road/stone wall coming through to inside. The agent contends it would be difficult and expensive to upgrade the existing house to modern energy standards, and to improve access.
- 1.2 The original dwelling measures 85sq.m and the replacement dwelling measures 140sq.m which is approximately 60% larger than the original. The internal floor space of the proposed dwelling is less than the approximate 60% increase in the external measurement due to the thickness of the walls. The existing dwelling and the proposed replacement both contain four bedrooms.
- 1.3 The overall increase in size being mostly as a result of the 3-storey level rear projection and the east elevation. It adopts the existing undercroft feature creating an accessible accommodation level access from the lower garden: it appears 3-storey from the south (rear) elevation, whereas from the north (front) the house is 2-storey, which reflect the existing appearance of the house. On the ground floor, that would be set into the hillside, there would be a kitchen, hall, living room, utility, store and plant room. The first floor would have a galleried landing as its central feature, with level access onto the parking area. Accommodation at this level would comprise two ensuite bedrooms and a study. The second floor accommodation, within the roof space and front and rear gable projections, would provide two further bedrooms, a bathroom and a study area.
- 1.4 The side elevation would be sited further away from the side boundary with no. 40a Dinham, Camp Lane. The proposed dwelling would be further set back in the plot, set in from the frontage by some 6.2metres, and would project on the east side compared to the existing dwelling.
- 1.5 The proposal would adopt similar materials to the existing. The walls of the replacement house have a natural coursed rubble stone plinth (recycled local stone with lime mortar); the central and west wing would have painted render walls, in keeping with the existing house; the east wing would be of recycled local brick; windows white painted and the roof plain clay tiled to echo the existing. In this way the increased size of the building is mainly to the east elevation, with the house set into the landscape, similar pitched roof and details in keeping with the existing house and the surroundings. The agent envisages that the proposal would achieve a level of energy efficiency greater than that currently specified by Building Regulations.

The stone wall boundary treatment to Camp Lane would be retained and extended to maintain this form of enclosure to the lane.

- 1.6 In comparison with the details submitted with a pre-application enquiry the applicant has significantly reduced the footprint, and the fenestration has been altered to reduce the upper windows for a more traditional vernacular appearance. From Camp Lane the proposal would appear lower in height than the existing dwelling (by some 0.5metres).

2.0 SITE LOCATION/DESCRIPTION

- 2.1 The site is located on the edge of the open countryside and is in the Ludlow Conservation Area. The development boundary excludes the curtilage land of The Lodge. The house was built circa.1930 on the site of the Coach House to Maryvale House. The existing house has an Arts and Crafts era design.
- 2.2 The site falls within a landscape character which is one in which the landscape is largely dominated by settlement and existing development on the edge of the development boundary. Nevertheless, open views across the river are also a feature which the policy guidance seeks to maintain, within the Conservation Area and the adjacent open countryside.

3.0 REASON FOR COMMITTEE DETERMINATION OF APPLICATION

- 3.1 The Town Council has objected and requested that the application be presented to the Planning Committee for consideration. The Principal Planning Officer, in consultation with the Committee Chairman and Vice Chairman consider that the Town Council has raised material planning issues and the application should be determined by committee.

4.0 Community Representations

- 4.1 - Consultee Comments – comment.
4.1.1 Ludlow Town Council –Object:

The proposal will have a significant detrimental impact on the Conservation Area, including non-designated and designated heritage assets.

- 4.1.2 SC Drainage - comment:

No objection, subject to condition.

- 4.1.4 SC Affordable Houses – comment:

Replacement dwellings are exempt from the need to contribute to affordable housing as per the SPD Type and Affordability of Housing.

- 4.1.5 SC Conservation – comment:

The Conservation Officer is now satisfied with the principle aspects with the design such as the use of render and timber which reflects that of the existing 1920's building. Whilst the overall scale and footprint of the new dwelling will be greater

than the existing building, it is considered that it is proportionate in relation to its overall curtilage plot. During discussions with the applicant and architect some minor alterations to the southern elevation are necessary as to reduce the glazing on the proposed southern elevation, mainly that of the first floor balcony window which should be reduced in width as well as removing the balcony feature, though a plain glazed balcony may be acceptable. This should allow a better hierarchy of window articulation from the ground floor moving upwards.

4.1.6 Historic England – comment:

The form and suite of materials of the existing house has been employed to inform the design of the proposed new house. In order to justify a replacement within the Conservation Area it will be necessary to secure a high quality design that employs high quality materials so that the new house can make an architectural contribution to the Conservation Area such that the character and appearance of the Conservation Area is enhanced. The replacement building should therefore not be of disproportionate scale to that which exists on the site presently, and the ridge line should be meaningfully lower than that of the existing building, so that views into and out of the Conservation Area are enhanced. Consideration of appropriate traditional materials should be made, based upon a study of local vernacular architecture, including brick and timber. We are not convinced that extensive painted render panels are appropriate to this setting. We also recommend that the Historic Environment Good Practice in Planning note 2, 'Managing Significance in Decision-Taking in the Historic Environment', issued on March 25th 2015 is considered in coming to your decision.

Recommendation

We would urge you to address the above issues, and recommend that the application should be determined in accordance with national and local policy guidance, and on the basis of your specialist conservation advice. It is not necessary for us to be consulted again. However, if you would like further advice, please contact us to explain your request.

4.1.7 Ludlow Conservation Area Advisory Committee – comment:

The proposal would have a detrimental impact on the character and appearance of the Conservation Area because of its scale, massing and detailing. The scale of the proposal is justified by comparing it with the existing property and its neighbours. However, the proposal is considerably bigger than either the existing or any other property in the road. The justification for this in the application does not deal with the fundamental points that the apparent scale, because of its massing and more prominent siting, will be very substantially greater than the existing property and that the neighbouring property is very far from one to be emulated. The layout of the windows and other detailing will make the proposal look like an overgrown housing estate property. The pity is that this is a very rare opportunity for a work of modern architecture that will compare in quality with the glories of Ludlow's past something potentially award-winning. What is offered is a proposal of the utmost banality.

4.1.8 Shropshire Wildlife Trust – comment:

Recommend bat mitigation conditions; including the provision of 3 bat boxes on mature trees, raised tiles or bat within the roof of the replacement house, wildlife sensitive lighting, and Europe Protected Species Licence.

- Public Comments:

4.1.9 3no. responses; one person says the building below road level would improve view of the Whitcliffe and still maintain privacy; two other persons have concerns about the effect on parking on the road outside the site during the construction works.

5.0 THE MAIN ISSUES

Principle of Development

The impact upon the visual amenities of the Conservation Area and open countryside
Living conditions.

6.0 OFFICER APPRAISAL

6.1 Principle of Development

6.1.1 S38(6) of the Planning and Compulsory Purchase Act, states LPA' s must determine applications in accordance with the local plan unless material considerations indicate otherwise. It means decisions must comply with the development plan as a 'whole.'

6.1.2 Shropshire Core Strategy policy CS3 relates to Market Towns and other key centres, and identifies Ludlow as a focus for development, whilst respecting its historic character. The existing Lodge dwelling falls within the Ludlow Development boundary in the adopted Site Allocations and Management of Development (SAMDev) Plan, but the bulk of its grounds are outside of the Development boundary. There is no in-principle planning policy objection to the erection of a replacement dwelling on the site of the existing dwelling. In this case the proposed replacement dwelling would be partly on the foot print of the existing dwelling, but the bulk of its foot print would straddle the line of the Development boundary shown in the SAMDev Plan. However given the overlap and the site of the proposed dwelling being existing residential development, it is considered that there is no in-principle planning policy objection to a suitable replacement dwelling. The consideration of this proposal therefore is focused on an assessment of the detailed considerations set out below.

6.1.3 The Government attached great importance to the design of the built environment (Section 7 of the NPPF). Policy SC6 (Sustainable Design and Development Principles) of the Core Strategy and MD2 of SAM Dev sets out the criteria that development will be assessed. Policy CS6 of the Core Strategy refers to, amongst other things, creating sustainable places; high quality design which respects and enhances the local context and character of the area; protects, restores and enhances the natural, built and historic environment; and energy efficiency. The site is within the Ludlow Conservation Area where there is a duty for local authorities under section 72 the Planning (Listed Building and Conservation Areas) Act 1990 to have regard to the desirability of preserving or enhancing the character or appearance of a conservation area in exercising statutory functions. There is a

similar obligation under section 66 of the same Act to have special regard to the desirability of preserving listed buildings or their settings, or any features of special architectural or historic interest they possess, in exercising the planning function. Core Strategy policy CS17 and SAMDev Plan policy MD13 accord with this requirement. The impact of the proposed development on the Conservation Area is considered below.

6.2 The impact upon the visual amenities of the Conservation Area and open countryside.

- 6.2.1 SC Policies SC6, CS17 and MD2 outlines, amongst other things high quality design in context. The thrust of one of the core principles of NPPF is that planning should always seek to secure a good standard of amenity for all existing and future occupants of property. Whilst the increase in floor space (60%) is one measure to assess the size of a building, another is its mass and volume. The landscape impact requires careful evaluation of the proposal's scale and visual (appearance) assessment on the quality of the local landscape.
- 6.2.2 In terms of 'layout,' the proposed house would be set back from the road. It would sit comfortably set further to the rear. Situated adjacent to the application site is a large detached dwelling no.40a. The new house would project backward of this neighbouring house. As a result of the spacing that would exist between the new house and 40a next door it would not appear cramped on the large plot on which the replacement house would be located. The proposed house would have a lower ridge line (0.27m lower) than the existing house.
- 6.2.3 Visual amenity includes design. The 'detailing' of the eaves, windows, bricks and lintels would help to ensure that the proposed dwelling is of a high quality design. The imposition of a condition regarding the materials to be used in the construction would also help to guarantee that the design style is of a high standard and the proposed house would make a positive contribution to the character and appearance of the Conservation Area.
- 6.2.4 There are open views from the rear of the site. The siting against a landscaped backdrop to the river would not appear as an intrusive feature on the edge of the development boundary. However, the extensive garden and the undeveloped nature of the site create an attractive transition between the existing dwelling and the adjacent open countryside, although the degree of visibility will vary on a seasonal basis with thickness of the vegetation. The views are open, rural in character in between the house and the river.
- 6.2.5 The key test is not the effect of the proposal on the site itself but on the surrounding area. The proposal is relatively well contained within the landscape and the change in the views would be limited in character, with public vantage points identified from the road and along the public footpath which runs alongside the river, from where the development would be in character with the existing built context. However, given the distance between the replacement house and the river, and because of its scale and appearance, it is considered the views of the proposed dwelling would not have an adverse impact on the landscape and scenic beauty in relation to the receptor locations.

6.2.6 In overall conclusion on the second main issue, the proposed development is of the highest quality design and would not have a detrimental impact in terms of the preservation or enhancement of the character and significance of the Conservation Area, and protection of the open countryside, in accord with policies CS6 and CS17 of the Core Strategy and MD2 of the SAMDev Plan.

6.3 Living Conditions

6.3.1 Core Strategy policy CS6 seeks to safeguard residential amenity. Design should be appropriate in itself and in relation to adjoining properties. In terms of 'siting' the new house would project backward of the neighbouring dwelling to the north (40a). Space would exist between facing flank walls, and there is currently space between the existing side elevation of 40a and the common boundary with the application site.

6.3.2 Given the orientation of the sun and the size and the location of the proposed house, it is considered that the distance between it and the neighbour's south facing rear garden/ east facing side elevation would be sufficient to ensure there would be no significant loss of 'light' to this neighbouring property.

6.3.4 In terms of 'privacy,' there would be a balcony at 1st floor level in the rear elevation. It is considered there would be no opportunity for direct overlooking from this balcony, and the distance between the flank walls would ensure no mutual loss of privacy in terms of overlooking and outlook. The amenities of residential properties on the opposite side of Camp Lane would not be significantly affected as, from their viewing perspective, the proposed replacement dwelling would sit lower in the streetscene.

6.3.5 For these reasons, it is considered the proposed development would not significantly impact on neighbour amenity. As a result there would be no conflict with this element of policy CS6 of the Core Strategy.

7.0 CONCLUSION

7.1 There is considered to be no in-principle planning policy objection to the erection of a replacement dwelling in this location. The proposal, in terms of size, scale, design, materials and character would not detract from the character or appearance of the Conservation Area and its setting. The residential amenities of adjacent properties and the locality would not be unduly harmed by the proposed development.

8.0 Risk Assessment and Opportunities Appraisal.

8.1 Risk Management

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

- As with any planning decision the applicant has a right of appeal if they disagree with the decision and/or the imposition of conditions. Costs can be awarded irrespective of the mechanism for hearing the appeal, i.e. written representations, hearing or inquiry.
- The decision may be challenged by way of a Judicial Review by a third party. The courts become involved when there is a misinterpretation or

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

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

8.2 Human Rights

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

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

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

8.3 Equalities

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

9.0 Financial Implications

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

10. Background

Relevant Planning Policies

Central Government Guidance:
National Planning Policy Framework

Core Strategy policies:
CS3 - The Market Towns and Other Key Centres
CS6 - Sustainable Design and Development Principles
CS17 – Environmental Networks

SAMDev Plan:

MD2 - Sustainable Design

MD12 – Natural Environment

MD13 – Historic Environment

S10 – Ludlow Area

RELEVANT PLANNING HISTORY:

SS/1/01/12188/LB Erection of a porch, alterations to dwelling, and alterations to vehicular access. PERCON 9th July 2001

SS/1/01/12187/F Erection of a porch, alterations to dwelling, and alterations to vehicular access. PERCON 9th July 2001

SS/1/04/16407/LB Installation Of A Satellite Dish. PERCON 13th December 2004

SS/1/00/11552/TC Felling of trees. NOOBJ 16th November 2000

SS/1/00/11548/CA Demolition of conservatory and garage. PERCON 16th November 2000

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

Biodiversity Survey and Report

Heritage Statement

Structural Survey

Cabinet Member (Portfolio Holder)

Cllr M. Price

Local Member

Cllr Andy Boddington

Appendices

APPENDIX 1 - Conditions

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

1. The development hereby permitted shall begin no later than three years from the date of this decision.

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

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

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

3. A total of 3 bat boxes suitable for alternative roosting for small scale crevice dwelling bat species shall be erected on mature trees on the boundaries of the site prior to the demolition works hereby permitted. The boxes must be at an appropriate height and face south, south-east or south-west.

Reason: To provide roosting opportunities for protected species.

4. Raised tiles or bat tiles shall be provided within the roof of the replacement house.

Reason: To provide roosting opportunities for protected species.

5. Development shall not be begun until a European Protected Species (EPS) Licence with respect to bats has been obtained for the proposed works.

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

6. Prior to commencement of development, details of a wildlife sensitive lighting scheme within the site shall be submitted to and approved in writing by the Local Planning Authority. Development shall be carried out only in accordance with the approved details and thereafter retained for the lifetime of the development.

Reason: In the interests of nature conservation.

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

Reason: This information is required before the commencement of development, to ensure satisfactory drainage of the site and to avoid flooding.

8. Prior to the above ground works commencing samples and/or details of the roofing materials and the materials to be used in the construction of the external wall 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.

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

9. Before the development is commenced there shall be submitted to and approved in writing a scaled plan showing cross sections through the site which show the existing land levels and proposed land levels together with the finished floor levels the proposed dwelling and garden. Once these details are approved the development shall be carried out in accordance with the agreed details unless otherwise agreed by the Local Planning Authority.

Reason: To ensure a satisfactory relationship between the development site and adjoining land. To ensure that construction is carried out at a suitable level having regard to drainage, access, the appearance of the development and the amenities of neighbouring properties.

10. No development shall take place until a programme of archaeological work has been implemented in accordance with a written scheme of investigation which has been submitted to and approved in writing by the Local Planning Authority.

Reason: To ensure that the archaeological interest of the site is properly safeguarded and recorded.

11. No development shall be commenced until full details of landscape works have been approved in writing by the Local Planning Authority and these works shall be carried out as approved. These details shall include:

Planting plans;

Written specifications (including cultivation and other operations associated with plant and grass establishment);

Schedule of plants, noting species, planting sizes and proposed number/ densities where appropriate; and

Implementation timetables.

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

12. All hard and soft landscaping works shall be carried out in accordance with the approved details. The works shall be carried out in the first planting and seeding season following the completion of the development or in accordance with a timetable which has been approved in writing by the Local Planning Authority. Any trees or plants that, within a period of five years from planting, are removed, die or become seriously damaged or defective, shall be replaced with others of species, size and number as originally approved, by the end of the first available planting season.

Reason: To ensure the provision, establishment and maintenance of a reasonable standard of landscape in accordance with the approved designs.

13. A scheme for making good any damage/scarring of the roadside boundary wall revealed by the demolition work shall be submitted to and approved in writing by the Local

Planning Authority within one month of the demolition. The works relating to the scheme shall be carried out in accordance with the approved details.

Reason: To ensure that the character and appearance of the Conservation Area is maintained.

14. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any Order revoking, re-enacting, or modifying the Order), no extensions or enlargement of the dwelling hereby permitted shall be erected, constructed or carried out.

Reason: To maintain the scale, appearance and character of the development and to safeguard residential and visual amenity.

INFORMATIVES

1. A sustainable drainage scheme for the disposal of surface water from the development should be designed and constructed in accordance with the Council's Surface Water Management: Interim Guidance for Developers Document. It is available on the Council's website at: [flooding/flood- risk- management - and- the - planning - process](#). The provisions of the Planning Guidance, in particular Section 21 Reducing the causes and impacts of flooding, should be followed. Preference should be given to drainage measures which allow the rain water to soakaway naturally. Connection of new surface water drainage systems to existing drains/ sewers should only be undertaken as a last resort, if it can be demonstrated that infiltration techniques are not available.
2. In arriving at this decision the Council has used its best endeavours to work with the applicant in a positive manner to secure an appropriate outcome as required in the National Planning Policy Framework, paragraph 187.



Committee and date
 South Planning Committee
 1 March 2016

Development Management Report

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

Summary of Application

Application Number: 15/01817/OUT	Parish:	Rushbury Parish Council
Proposal: Outline application for the erection of an essential occupational workers dwelling (all matters reserved)		
Site Address: Land North Of The Coates, Longville In The Dale, Shropshire		
Applicant: BFG Groundwork Ltd		
Case Officer: Mark Lynch	email: planningdmc@shropshire.gov.uk	



Recommendation:- Refuse Outline planning permission for the reasons set out below: .

1. The proposed development, by virtue of its open countryside location outside of any settlement identified as suitable for open market residential development, is considered to be contrary to the adopted development plan policies contained in the adopted Shropshire Core Strategy and Site Allocations and Management of Development (SAMDev) Plan. The proposed development has not been justified in terms of meeting the need for an essential rural worker to reside at or near their place of work in the countryside. As such, the proposal will accordingly conflict with Policies CS1, CS4 and CS5 of the adopted Shropshire Core Strategy and MD1 and MD7a of the adopted SAMDev Plan, as well as the national guidance contained within the National Planning Policy Framework.
2. The proposal, by way of its location in the open countryside within the defined Shropshire Hills Area of Outstanding Natural Beauty, would result in an isolated and prominent form of development that would have a detrimental impact upon the intrinsic character and beauty of the countryside and the special qualities of the Shropshire Hills Area of Outstanding Natural Beauty. The proposals are subsequently considered to conflict with the principles of Policies CS6 and CS17 of the adopted Shropshire Core Strategy, MD2 and MD12 of the adopted SAMDev Plan, the guidance contained within the Shropshire Hills AONB Management Plan and the provisions of the National Planning Policy Framework.

REPORT

1 THE PROPOSAL

- 1.1 The proposed development comprises a new three-bedroom detached dwelling house in the open countryside to provide living accommodation for the owner of a construction storage business located in the rural area of South Shropshire between Longville in the Dale and Wall Under Heywood. The proposal is in outline with all matters reserved. The indicative plans submitted with the application show a detached dwelling house and separate garage accessed from the existing site entrance which is shown to be widened. It is located within the northern part of the site with an area of domestic garden tapering towards the north eastern corner of the site.
- 1.2 The development will have a package treatment plant to deal with foul sewage and surface water will be dealt with via a soakaway system.
- 1.3 Materials are not specified although the Design and Access Statement makes reference to brickwork, render and possible weatherboarding (for the garage).

2.0 SITE LOCATION/DESCRIPTION

- 2.1 The site is a small triangular shaped plot of land located on the southern side of the B4371 between the villages of Wall Under Heywood and Longville in the Dale within the Shropshire Hills Area of Outstanding Natural Beauty. It is bounded on its roadside edge by a mixture of trees and hedgerow and there is a gated vehicular access at its north eastern corner that leads into the core of the site. A second gated access exists in the south western corner.

- 2.2 The site contains a single low level 'nissen hut-style' shed used for storage together with a container located on its southern side. At the time of the planning officer's site visit, the site contained a number of open storage areas containing a small amount of building materials (mainly block, pipes, bricks and bagged materials) and associated items such as a wheel barrow, a skip and a portable w.c. Other items included a domestic washing machine and a number of oil drums and plastic drums.
- 2.3 The southern boundary is marked by a low level hawthorn hedge beyond which lies an arable field. The north eastern corner, which is the location for the proposed dwelling house, contains a number of trees. The site is relatively isolated within an agricultural landscape containing scattered farms and traditional cottages.
- 2.4 The site formed part of a previously winding section of the road which became redundant when the road was re-aligned at this point in or before 1970. Following the realignment of the road, the land was used by the County highway authority as a small storage depot in connection with road maintenance.

3.0 REASON FOR COMMITTEE DETERMINATION OF APPLICATION

- 3.1 The application is reported to the planning committee because the officer recommendation differs from that of the parish council. Following discussions with both the local elected member and the Area Planning Manager it has been agreed that the issues raised in this case warrant consideration by the South Planning Committee.

4.0 Community Representations

- Consultee Comments – comment.

4.1.1 Parish Council –Support:

Rushbury Parish Council – supports the application as the applicant is a local person having lived in the parish for the last twenty years.

4.1.2 SC Drainage - comment:

No objection. A sustainable drainage scheme for the disposal of surface water from the development should be designed and constructed in accordance with the Councils Surface Water Management: Interim Guidance for Developers document.

The provisions of the Planning Practice Guidance, in particular Section 21 Reducing the causes and impacts of flooding, should be followed. Preference should be given to drainage measures which allow rainwater to soakaway naturally. Connection of new surface water drainage systems to existing drains / sewers should only be undertaken as a last resort, if it can be demonstrated that infiltration techniques are not achievable.

4.1.3 - Public Comments:

One letter received in support of the proposal. The following representations have been made:

- The applicant moved to this area from Cornwall 18 years ago working his way up and running his own business

- Planning permission exists for a storage shed on the site
- Essential to live on site for business continuity and security
- Applicants have been great supporters of all community events
- It will be an asset for the area to have a young family living, working and attending school there.

5.0 THE MAIN ISSUES

The main planning issues concern the following:

- Principle of development
- Siting, scale and design of development
- Visual impact and landscaping
- Impact on the AONB
- Highway safety
- Drainage and flood risk

6.0 OFFICER APPRAISAL

6.1 Background

6.1.1 The applicant has provided the following additional information. He and his family currently reside at Little Stretton, some six miles away from the application site. He has built the current business up over the last twenty years. The applicant rents another unit on an industrial estate in Church Stretton where a proportion of out of hour's deliveries or collection of machinery takes place. The business provides emergency repairs for contract work as well as a large range of specialist works (not expanded upon) throughout the area. The business owns the majority of tools, plant and equipment which needs regular maintenance back at the yard which must be secure. Specialist equipment is delivered to the yard for collection.

6.2 Principle of Development

6.2.1 The determination of a planning application is to be made pursuant to section 38(6) of the Planning and Compulsory Purchase Act 2004, which is to be read in conjunction with section 70(2) of the Town and Country Planning Act 1990.

6.2.2 Section 38(6) requires the local planning authority to determine planning applications in accordance with the development plan, unless there are material circumstances which 'indicate otherwise'. Section 70(2) provides that in determining applications the local planning authority "shall have regard to the provisions of the Development Plan, so far as material to the application and to any other material considerations." The Development Plan consists of the adopted Shropshire Core Strategy 2011 and the adopted Site Allocations and Management of Development Plan (SAMDev Plan) 2015.

- 6.2.3 The SAMDev Plan is the second part of the Local Development Framework for the county. The Core Strategy policies are complimented by the SAMDev Plan DPD, which provides additional detail to the over-arching policies contained in the Core Strategy. Following its adoption on 17th December 2015 previously saved policies of the South Shropshire District Local Plan have been superseded.
- 6.2.4 For the rural areas the SAMDev Plan seeks to deliver the 'rural rebalance' agenda prioritised in the Core Strategy Policies CS4 and CS5. In doing so, the Plan identifies those rural settlements where some new development will in principle be appropriate within Community Hubs and Clusters. These settlements are subject to development guidelines taking into account local environmental and infrastructure constraints as well as local views expressed through Parish Plans and Village Design Statements. It is considered to carry substantial weight and is a material consideration in the assessment of this planning application.
- 6.2.5 The National Planning Policy Framework (NPPF) promotes sustainable development and states that new housing applications should be considered in the context of the presumption in favour of sustainable development. Paragraph 49 states that housing applications should be considered in the context of the presumption in favour of sustainable development. However, this presumption does not apply to sites located within designated areas such as Areas of Outstanding Natural Beauty.
- 6.2.6 The application site lies outside the defined settlement boundaries for the County; therefore, the following Policies are considered to be most relevant.
- 6.2.7 Policy CS1 establishes a settlement hierarchy with new development focussed in Shrewsbury, the Market Towns, other identified Key Centres and, in the rural areas, the Community Hubs and Community Clusters. These are considered to be the most sustainable places to deliver the overall strategy of managed growth which will reinvigorate smaller settlements within the rural areas using an approach termed 'rural rebalancing'. The application site does not fall within any of these settlements and is, therefore, considered to be open countryside. New housing development within the countryside outside of these settlements will be controlled and is intended to meet the needs of local communities for affordable housing.
- 6.2.8 Policy CS4 relates to Community Hubs and Clusters. Development outside of these settlements will not be permitted unless it complies with Policy CS5. The application site is not located within a settlement and is a considerable distance away from either a Community Hub or a Community Cluster settlement (neither Longville in the Dale nor Wall Under Heywood fall within these categories) and so cannot comply with Policy CS4.
- 6.2.9 Policy CS5 concerns new development within the countryside. It states that new development will be strictly controlled in accordance with national planning policies. The Framework aims to boost the supply of new housing within rural areas where they respond to local circumstances and reflect local needs, especially for affordable housing. Housing should be located where it will enhance or maintain the vitality of rural communities. Isolated homes in the countryside, such as this proposal, should be avoided unless there are special circumstances such as, *inter alia*, the essential need for a rural worker to live permanently at or near their place of work in the countryside.
- 6.2.10 Policies contained within the Core Strategy reflect the guidance set out in the Framework in that the settlement hierarchy established through Policies CS1, CS3 and CS4 seeks to deliver new housing development in the most sustainable locations, including within the rural areas.

- 6.2.11 In respect of the current proposals, Policy CS5 makes provision for dwellings to house agricultural, forestry or other essential countryside workers and other affordable housing/accommodation to meet a local need where this can be demonstrated in accordance with national planning policies and Policies CS11 and CS12. Where this can be shown, the development will be expected to take place primarily within recognisable named settlements or be linked to other existing development and business activity where this is appropriate.
- 6.2.12 Policy MD7a of the SAMDev Plan is particularly relevant to this case. This policy is concerned with managing the development of land in the countryside for market housing and it clearly states that such housing will be strictly controlled outside of Shrewsbury, the Market Towns, Key Centres, the Community Hubs and Community Clusters. Outside of these areas, exception site dwellings (i.e. those needed to house agricultural, forestry or other essential countryside workers and other affordable housing to meet a local need) and residential conversions will be positively considered where they meet evidenced local housing needs and other relevant policy requirements. In the absence of such evidence new development will not satisfy the exception test and should not be approved.
- 6.2.13 The applicant's case centres on the proposed development being related to a business in the form of the building supplies and plant business carried on at the site. The dwelling will provide living accommodation for the applicant and his family. The business appears to have become established on this site around November 2012 when planning permission was granted for the change of use of the site from a former Council storage depot to premises for the storage of building/construction equipment and materials. Planning permission was also granted in March 2014 for a new secure general purpose storage building for the business (ref 13/04882/FUL), but there is no evidence on the site that work has commenced on this.
- 6.2.14 The Framework (NPPF), the Core Strategy and SAMDev Plan all seek to avoid new isolated homes in the countryside unless there are special circumstances such as the essential need for a rural worker to live permanently at or near their place of work in the countryside. In order to justify the dwelling, it is important that the applicants are "rural workers" and that they are able to demonstrate that it is essential for them to live "permanently at or near their place of work in the countryside". If it is not demonstrated that a genuine essential need for the "rural workers to live permanently at or near their place of work" exists then planning permission should be refused.
- 6.2.15 The definition of what constitutes a "rural worker" is not made in the Framework. However, this has previously related to farm workers, forestry workers, persons associated with equine activities and other rural businesses. It is unlikely that employees associated with building suppliers, building contractors and storage businesses would fall into the category of "rural worker". Building contractors' yards or other construction-related businesses have not traditionally been considered to be a rural enterprise. Whilst there are examples of such businesses in the countryside; that does not necessarily equate to the same thing.
- 6.2.16 Farm diversification schemes including leisure activities and tourism-related enterprises sometimes also fall within this category. In order to justify new residential development associated with these enterprises, it has always been necessary to demonstrate a clear functional need for the dwelling and that need fundamentally depended on the requirements of the business rather than the desire of the applicant to live in the countryside. It is also necessary to demonstrate that the business operations could sustain the dwelling, especially where this is the primary dwelling associated with the

enterprise, by providing financial information; usually in the form of audited accounts and a business plan.

6.2.17 Even if it were accepted that the applicant constituted a rural worker for the purposes of Paragraph 55 of the Framework, the next part of the test is to establish that an essential need exists for the rural worker to live permanently at or near their place of work in the countryside.

6.2.18 The degree of activity and investment in the site from a recent site visit appears to be of a low level. Further justification has been requested in respect of the above factors and the applicant has provided the following additional information in respect of the functional and financial aspects:

- The applicant currently lives in Little Stretton, approximately 6 miles (9.7km) away from the site. The dwelling is a modest Grade 2 listed cottage with restricted parking and is not suitable for further development.
- He also rents a unit at Crossways Industrial Estate, Church Stretton 4.8 miles away (7.75km). It is expensive and not entirely suitable. Out of hours deliveries or collection of machinery usually results in noise complaints.
- The applicant has a very simple and straightforward business plan which has served him well. He works hard, takes very few holidays and ploughs all profits back into the business.
- The company owns the majority of tools and plant and needs regular maintenance back at the yard. Specialist equipment is delivered to site for collection. Without permanent presence at the site security is a worry.
- An approval exists for a general purpose building on the site and this shows the applicant's ambition to expand and improve facilities.
- The security problem would be eliminated with a permanent dwelling as a deterrent. The use of CCTV would be of no use without an on-site presence. Guard dogs would be impractical at this rural location. It would be cruel and an organized gang would think nothing of shooting a guard dog.
- Many items of machinery were taken from a secure locked building. The only option would be to either hire a security guard or regularly stop at the site, both of which would be either expensive or disruptive to the applicant.
- In order to expand the applicant needs a site that can operate any time day or night and for this to become reality he needs to be living there.
- The applicant is reluctant to invest in the site unless he is able to live on it.
- Living on site would eliminate wasted travelling time and the business could be operated and run far more efficiently and insurance premiums would be greatly reduced.
- A property with a dwelling, buildings and yard suitable to accommodate BFG Groundwork at an affordable price simply does not exist locally.
- The business is entirely rural based, employs local people, uses local businesses for materials and equipment and the applicant has very strong local connections which have been proven by the Parish Council support.

- The Framework acknowledges rural businesses and the support that should be offered them, because of the economic benefits that they bring. BFG Groundwork certainly fulfills this role and provides jobs and money for the local economy.
- There have in the past been approvals granted for occupational workers dwellings in Shropshire so our proposal is not unique and would not set any precedents.

- 6.2.19 The degree of investment in the site appears to be low and the business at the site has existed for a relatively short period of time. No financial information has been provided to demonstrate how the business is capable of funding the proposed dwelling house and the recently approved storage building. The need for a permanent presence on the site is not supported by these facts. Under normal circumstances, instead of applying for a permanent dwelling at or near the site, small rural-based business ventures would seek an initial temporary form of accommodation which would enable the local planning authority to monitor the enterprise's development over a three year period. If successful, an application for a permanent dwelling might be justified thereafter. However, as it is not accepted that this is a true rural business, even this approach would be difficult to justify.
- 6.2.20 The Framework acknowledges that rural areas have been changing and paragraph 28 encourages support for businesses of all types in rural areas in order to boost economic growth in rural areas. It does not follow, however, that this encouragement extends to new residential development that may be unsustainable. The submitted Planning Statement states that the applicant will not invest in the business at the site unless he is allowed to live there: *"This important rural business requires further investment and focus to ensure that it can flourish and more importantly remain in the locality. Understandably, Mr Flashman is unwilling to undertake the required programme of investment without the knowledge that he will be allowed to build residential accommodation on the site"*.
- 6.2.21 This admission raises a key concern in that it would appear the principal justification for the dwelling is not driven by the needs of the business which, at the present time, appears to be primarily based at the rented site in Church Stretton, but more by a personal desire to live in the countryside. Under normal circumstances, it is usual for the owner of a rural business to apply for a worker's dwelling after the business has been operating successfully for a reasonable period of time and after it has been the subject of investment and growth. This is usually easy to demonstrate with appropriate evidence, such as new capital expenditure on buildings, materials, infrastructure, new contracts, increasing market share and profitability. It is usual for a business plan to be in place showing planned expansion and how it will be financed.
- 6.2.22 There is no such evidence in this case. It is a fact that planning permission exists for a new storage building, but no attempt has been made to implement the permission granted in March 2014. The business activity on the site is evidently very low key. If permission for the dwelling is granted, there is no guarantee that the approved storage building will be erected. In addition, the Planning and Design and Access Statements refer to possible future development on the site, but there is no business plan showing how this will be delivered. The site is not large and new development is likely to require planning permission and there can be no assurance that it will be granted.
- 6.2.23 The granting of a planning permission is not synonymous with investment. Without the commitment to investment that the provision on the site of this storage building would clearly demonstrate, it is not the correct time for an application for a new dwelling house

in the countryside to be considered; notwithstanding the fact that the applicant is not considered to be a rural worker *per se*. This is a builder's yard that just happens to be located in the rural area. It is a business that does not by necessity have to have a countryside location. There are any number of small businesses that are located in rural areas, including motor workshops and light industrial uses. If each of those made a similar case it would result in new housing appearing everywhere there was a small business that just happened to be in the countryside which would fundamentally alter the development strategy of the Council's Development Plan.

- 6.2.24 The applicant has provided some additional information in support of his application but nothing that demonstrates an *essential need* to live *permanently* at the site. The information provided strongly suggests that the preference to live at the site is more to meet the desires and convenience of the applicant rather than the needs of the business. This is not consistent with either the intentions of the Framework or the Core Strategy and SAMDev Plan.
- 6.2.25 The applicant has the support of the local parish council and of a member of the public. This is primarily based on the fact that he is a local person and deserves support. Unfortunately, this alone is insufficient to justify approval of a new dwelling in the countryside which must be based on sound planning principles and evidence of need. Otherwise, any person with a local connection would be entitled to build a new house within the countryside without proper analysis and justification. The outcome of such an approach to planning would be to undermine the development strategy set out in the Core Strategy and the SAMDev Plan and the plan-led approach to development management embodied in the Framework.
- 6.2.26 Planning decisions must be based on consistency and allowing one development based on this approach would create a future problem for the local planning authority. There may, for example, be instances where local people with business interests that are not considered to have an essential need for a countryside location such as vehicle repairers, car sales, other building supplies/contractors and so forth seek planning permission for new dwellings at their place of work. There will be difficulty in resisting these if the decision turns solely on the test of local connection.
- 6.2.27 For these reasons, it is not accepted that the business operator is a "rural worker" for the purposes of planning policy. There is no essential need for a worker to live "permanently" at or near to the site in this case. In addition, the development will result in an isolated rural dwelling in the countryside, which is also contrary to the advice set out in paragraph 55 of the Framework.

6.3 **Siting, scale and design of development**

- 6.3.1 The proposal is in outline only so it is not possible to comment in detail at this stage on the design of the dwelling. The siting has been chosen as the only feasible location due to the size, shape and use of the site together with constraints imposed by existing and proposed buildings within it. The site of the dwelling house is close to the northern boundary and will result in loss of a number of trees. However, it is likely that a hedgerow along the boundary will be largely retained thereby helping to soften the physical impact of the new dwelling on the street-scene.
- 6.3.2 The scale has not been quantified but the Design and Access Statement refers to a modest sized three bedroom family house with a separate garage. Policy states that the primary dwelling for a rural worker should not exceed 100 square metres in floor area. This would provide a suitable amount of floor space for a three bedroom dwelling house and this dimension could be made the subject of a planning condition.

6.4 **Visual impact and landscaping**

6.4.1 As mentioned above, the site is in a relatively isolated location where there is little in the way of built form. The surrounding area is predominantly agricultural in character and comprises arable fields and scattered farm buildings and traditional cottages. The application site is visible from the main road, especially from the west, where there are gaps in the boundary hedge/trees. The application site contains a number of trees that will have to be removed to make way for the development. There is a native species hedgerow along the roadside boundary which will be largely retained should the development be approved. These would help to screen the development to some extent from public vantage points although the dwelling house and garage is likely to be visible given its height, proximity to the boundary and deciduous nature of the hedge. Given all of these factors, it is likely that the proposed development will have an adverse impact upon the character and appearance of the area, contrary to policies CS6 of the adopted Core Strategy and MD2 of the adopted SAMDev Plan.

6.5 **Impact on the AONB**

- 6.5.1 The site lies within the Shropshire Hills Area of Outstanding Natural Beauty (AONB). The Framework places great weight on conserving landscape and scenic beauty in AONBs, which have the highest status of protection in relation to landscape and scenic beauty, alongside National Parks and the Broads.
- 6.5.2 The explanatory text to Policy CS5 informs us there will be areas of the countryside where development will need to pay particular regard to landscape character, including the Shropshire Hills AONB. Policy MD12 of the SAMDev Plan concerns new development that affects the natural environment. It lends support to proposals which contribute positively to the special characteristics and local distinctiveness of an area, particularly in the Shropshire Hills AONB.
- 6.5.3 The Shropshire Hills AONB Management Plan 2014-2019 is a material consideration in the assessment of planning applications that affect the AONB. It states that the AONB designation is not about preventing change, but managing change in a positive way and securing maximum benefit for the area. Public bodies are legally required to 'have regard to the purposes of AONBs in carrying out their functions'. The primary purpose of AONB designation as set out in the National Parks and Access to the Countryside Act (1949, as amended) is "to conserve and enhance natural beauty".
- 6.5.4 Countryside Agency guidance of 2001 sets out the following non-statutory secondary purposes: "In pursuing the primary purpose of designation, account should be taken of the needs of agriculture, forestry, and other rural industries and of the economic and social needs of local communities. Particular regard should be paid to promoting sustainable forms of social and economic development that in themselves conserve and enhance the environment".
- 6.5.5 Housing appropriate to local need, tourism and business development are required to allow rural communities to survive, but these need to be of a scale, design and quality which complements the special qualities of the AONB. With care and thought it should be possible to address housing need in ways which are compatible with protecting the special qualities of the AONB. Management Plan Policies related to planning are intended to align with existing and proposed planning policies, while adding detail or clarification in relation to the AONB.

- 6.5.6 The design of all housing should demonstrate sensitivity to the special qualities of the AONB and are expected to be higher than outside the AONB. Development should not contribute to the loss of irreplaceable habitats or established ancient trees. All development should integrate well into the historic pattern and character of the surrounding built environment and landscape. Building style should reflect local tradition, and designs should be of a high standard in keeping with the nationally designated landscape. Inappropriate design, layout and materials should be avoided. Innovative sustainable schemes are to be encouraged where they take account of the surrounding vernacular and the use of local materials. Where possible, locally-occurring building materials should be used. Roofing materials should be in keeping with those used in nearby buildings, with no bright coloured tiles or reflective surfaces. The use of photovoltaic tiles matching existing and surrounding roof colours should be encouraged. External lighting on new developments should be kept to a minimum and use down-lighting to reduce light pollution.
- 6.5.7 The application site lies within the AONB and is in a relatively isolated location within the area. Relevant planning policy and policies contained within the AONB Management Plan seek to locate new development within areas of the AONB that do not undermine its landscape and scenic beauty. Notwithstanding the fact that the application is an outline one with all matters reserved for future consideration; it is considered that its isolated and prominent location within a landscape where views are long-ranging means that it will be a conspicuous form of development which would have a harmful impact upon the AONB. The proposed development would not be in accordance with Core Strategy Policies CS6 and CS17 or SAMDev Plan Policies MD2 and MD12.
- 6.6 **Impact on Highway Safety**
- 6.6.1 The proposal will make use of the existing vehicular access that also serves the yard. Although this is also a reserved matter, it is likely that this may be improved so that it is capable of serving both uses without affecting highway safety. The width of the verge and road alignment is such that adequate visibility and a pull-off for a vehicle entering or leaving the site should be achievable. Off-road parking would also be provided within the site to include a detached garage. It is considered that the site is capable of providing adequate parking within the site to meet the needs of a three bedroom dwelling. There are no objections based upon highway safety.
- 6.7 **Drainage and Flood Risk**
- 6.7.1 The Council's Drainage Team has commented on the application and has raised no objection subject to a satisfactory method of foul and surface water drainage being submitted for approval as part of a reserved matters application. There is, therefore, no objection to the proposal on drainage grounds.

7.0 CONCLUSION

- 7.1.1 Section 38(6) of the Planning and Compulsory Purchase Act 2004 provides that where regard is to be had to the development plan for the purpose of any determination to be made under the Planning Acts, the determination must be made in accordance with the plan unless material considerations indicate otherwise.
- 7.1.2 The National Planning Policy Framework provides for a presumption in favour of sustainable development. However, the application site is situated in an AONB where this presumption does not apply. Therefore, the proposal must be assessed against the provisions of the Development Plan balanced against other material planning considerations.

7.1.3 The site is an isolated one in the open countryside where new development is to be strictly controlled under the provisions of the adopted Development Plan. The site is not within a defined Community Hub or Cluster where new development is to be focussed as part of the Development Plan strategy for the rural areas. The proposals will not meet any of the exceptions to this strategy, such as meeting the essential need for a rural worker to live at or near their place of work in the countryside. There is no justification for the proposed dwelling house in this isolated location which would cause harm to the character and intrinsic beauty of the open countryside and to the special qualities of the AONB.

7.1.4 In conclusion, the proposed development would not be in accordance with either the adopted Development Plan or the adopted Shropshire Hills AONB Management Plan.

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

National Planning Policy Framework:

The following paragraphs are considered to be relevant: 7, 14, 17, 54, 55, 56, 58 and 115.

Shropshire Adopted Core Strategy:

CS1 Strategic Approach

CS4 Community Hubs and Clusters

CS5 Countryside and Green Belt

CS6 Sustainable Design and Development Principles

CS11 Type and Affordability of Housing

CS17 Environmental Networks

CS18 Sustainable Water Management

Shropshire Adopted SAMDev Plan:

MD1 Scale and Distribution of Development

MD2 Sustainable Design

MD3 Delivery of Housing Development

MD7a Managing Housing Development in the Countryside

MD12 Natural Environment

RELEVANT PLANNING HISTORY:

1. 10/00784/FUL – Erection of building for maintenance and repair of plant and commercial vehicles; erection of security lighting; installation of septic tank. Refused 01/06/2010
2. 12/03007/FUL - Change of use of former Council depot for the storage of building and construction equipment and materials. Approved 13/11/2012
3. 13/04882/FUL - Erection of a secure general purpose storage building. Approved 19/03/2014
4. 14/01905/DIS - Discharge of Condition 4 of Planning Consent 13/04882/FUL (Erection of a secure general purpose storage building). Approved 20/05/2014
5. PREAPP/12/00109 – Erection of Local needs exception site dwelling. Unacceptable location and contrary to planning policy 28/02/2012.

11. Additional Information

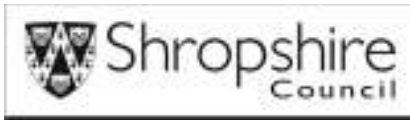
View details online:

<https://pa.shropshire.gov.uk/online-applications/applicationDetails.do?activeTab=documents&keyVal=NNBQCRTDK0400>

List of Background Papers (This MUST be completed for all reports, but does not include items containing exempt or confidential information) Design and Access Statement Planning Statement
Cabinet Member (Portfolio Holder) Cllr M. Price
Local Member Cllr Mrs Cecilia Motley

Informatives

Despite the Council wanting to work with the applicant in a positive and proactive manner as required in the National Planning Policy Framework paragraph 187, the proposed development is contrary to the policies set out in the Committee Report and referred to in the reason for refusal, and it has not been possible to reach an agreed solution.



Committee and date

South Planning Committee

1 March 2016

Development Management Report

Responsible Officer: Tim Rogers

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

Summary of Application

Application Number: 15/03170/OUT	Parish:	Highley
Proposal: Outline application (access, layout, scale not reserved) for residential development		
Site Address: Proposed Residential Development Land East Of Bridgnorth Road Highley Shropshire		
Applicant: Mr Andrew Maiden		
Case Officer: Richard Fortune	email: planningdmse@shropshire.gov.uk	

Grid Ref: 373923 - 284093



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Recommendation:- Refuse

Recommended Reason for refusal

The Council acknowledges that the housing proposed would contribute economically and socially by boosting the housing supply, including a contribution towards affordable housing, would provide limited support for the existing services in the village and would not detract from the visual amenities and character of the area. However it is considered that these factors are outweighed by the following harm: The proposed development would fall outside of the development boundary for Highley where Core Strategy policy CS5 and SAMDev policy MD7a restrict new build housing development to dwellings to house essential countryside workers and to meet identified local affordable housing need. No such need has been demonstrated in this case. The proposal is not consistent with the Plan-led approach to development set out in the National Planning Policy Framework and would be contrary to Development Plan policies CS3, CS4 and CS5 of the Shropshire Core Strategy and policies MD1, MD3, MD7a and S9 of the Site Allocations and Management of Development (SAMDev) Plan. There are no other material considerations of sufficient weight to justify a departure from adopted Development Plan policies in this case.

REPORT**1.0 THE PROPOSAL**

- 1.1 This proposal seeks outline planning permission for residential development, but reserved matters for which approval is being sought at this stage include access, layout and scale. (Only appearance and landscaping would need to be the subject of future reserved matter(s) applications should this application be granted planning permission). The submitted details show that consent is sought for nine 2 bedroomed bungalows on the land. The proposed access road would lead from the existing access onto the B4555 road and would involve the realignment of a section of farm track which is also a bridleway. The bridleway would continue on its current route in a north easterly direction, with the proposed road to the bungalows following a curving arc in an easterly direction. The access road would terminate in a turning head in the main body of the site. Four of the bungalows would be served by individual private drives leading from the turning head. The two bungalows on the southern side of the turning head would share a parking area. The three remaining bungalows would be to the south of the access road and would share a private drive. The bungalows would have generous garden areas and an informal layout within the site.
- 1.2 The site is situated outside, but immediately adjacent to the Highley settlement development boundary shown in the Site Allocations and Management of Development (SAMDev) Plan.
- 1.3 This application is identical to one which was submitted in 2014 (ref 14/02129/OUT). An appeal was lodged against non-determination of that application, which resulted in a report being brought to the March 2015 meeting of the South Planning Committee to establish what the Council's reasons for refusal would have been, had the Council still been able to determine that application. The

Committee carried out a site inspection as part of that consideration. The Committee's decision at that time was to indicate to the Planning Inspectorate that they would have refused this application solely for the following reason:

"In the absence of the agreement to make a contribution towards affordable housing provision, the proposed dwellings would be contrary to Policy CS11 of the Shropshire Council's Local Development Framework Core Strategy and to Shropshire Council's Supplementary Planning Document on the Type and Affordability of Housing."

(It should be noted that this decision, and that of the Planning Inspector who determined the appeal, was made prior to the adoption of the SAMDev Plan and the implications of the adoption of SAMDev is discussed later in this report.)

- 1.4 The Planning Inspector, in determining the appeal on the 13th July 2015, concluded with respect to the affordable housing contribution that:

"I conclude on this issue that the absence of a completed legal agreement to secure appropriate affordable housing provision as part of the development in line with the Council's adopted development plan policies renders the proposal in conflict with the requirements of Core Strategy CS11 and the Type and Affordability of Housing SPD. Notwithstanding the WMS and NPPG, and despite the acceptability of the proposal and its sustainability credentials in other respects, I consider that this represents an overriding reason why planning permission should not be granted."

- 1.5 With regard to the other planning issues the Inspector commented on the site's sustainability credentials that:

"11.The site is adjacent to the development boundary, relates well to the existing built form and would not represent significant encroachment into the surrounding countryside. Although the eastern edge of the settlement is elevated above the Severn Valley the proposed low form of development would sit comfortably alongside the existing built form and would not harm the character or appearance of the Severn Valley. The scale and density of the proposal is appropriate for the site and its edge of settlement location.

12. The site is within walking distance (about 500m) of town centre facilities and services, and is closer still to the community facilities of the Severn Centre. The development can be accommodated without adverse implications for flooding ecology or other environmental issues in terms of access and highway safety."

With regard to other matters raised by neighbours and the Parish Council he commented:

"20. I have considered all other matters raised, including representations by some neighbouring residents and the views of the Parish Council. I consider that the position and orientation of the proposed bungalows would be such that, given the levels of the site relative to adjoining dwellings and subject to appropriate handling of boundary screening and the design of the external elevations at the reserved matters stage, the development

could be accommodated so as to avoid harm to the living conditions of neighbouring occupiers. For this reason I do not consider that the proposal would cause undue loss of privacy or overlooking. While such occupiers naturally value the existing view over an open field, and this would inevitably be lost, this does not alter my conclusion that neighbouring occupiers would continue to enjoy adequate levels of amenity.

21. The highway authority considers that acceptable access can be provided and that no harm to highway safety would result. Nor does the balance of evidence show, having regard to the responses of other statutory consultees and the Council's submissions, that there are significant objections to the proposal in terms of provision of infrastructure, adequacy of local amenities, interference with rights of way or the effects of past mining activity. I have dealt with points raised by the Parish Council concerning the site's location outside the development boundary on the east side of the settlement and its effect on the Severn Valley landscape building as part of my consideration of the first main issue above.

22. Consequently, none of these matters in my opinion comprise good reasons for refusing permission. However, this does not disturb my conclusion that the lack of a completed legal agreement concerning affordable housing provision constitutes a compelling reason why planning permission should not be granted."

- 1.5 The present application is accompanied by a unilateral undertaking to make the appropriate affordable housing contribution that will be due in this case.

2.0 SITE LOCATION/DESCRIPTION

- 2.1 The application site is a parcel of land roughly 0.79 hectares located on the east of B4555 (Bridgnorth Road) on the edge of Highley. The site is currently pasture land accessed off the B4555 via a single width track, which is part tarmacked at the junction with the road, before dissipating into a rough gravelled surface. The land slopes down towards the south and east towards the Severn Valley.
- 2.2 The existing access is also a bridleway and a right of way runs along the boundary with the east of the application site. To the south lies the residential properties of Vicarage Lane, north is further pasture land and to the west the rear gardens of the dwellings fronting Bridgnorth road all bound the site.

3.0 REASON FOR COMMITTEE DETERMINATION OF APPLICATION

- 3.1 There is a Parish Council objection and this is a complex application which, in the view of the Planning Services and Area Planning Managers in consultation with the Committee Chairman, should be determined by the South Planning Committee.

4.0 Community Representations

- Consultee Comments

- 4.1 Highley Parish Council – Object:
The Parish Council object to this application on the grounds that it is outside the

building line and in an area of high landscape value within the Severn Valley. The Parish Council are also concerned about the access to this development. The application is contrary to Shropshire Councils local plan with no new developments to be built to the east of the village, which was approved by Shropshire Council. The Parish Plan for Highley stated that there was sufficient housing commitment for current and future requirements.

4.2 SC Rights of Way – Comment: No reference to the public right of way which would be affected by the proposed development. Copy of plan supplied to show where the proposed access and the bridleway coincide.

4.3 SC Drainage – No Objection: The following drainage details, plan and calculations could be conditioned if outline permission were to be granted:

1. The application form states that the surface water drainage from the proposed development is to be disposed of via soakaways. Percolation tests and the sizing of the soakaways should be designed in accordance with BRE Digest 365 to cater for a 1 in 100 year return storm event plus an allowance of 30% for climate change. Alternatively, we accept soakaways to be designed for the 1 in 10 year storm event provided the applicant should submit details of flood routing to show what would happen in an 'exceedance event' above the 1 in 10 year storm event. Flood water should not be affecting other buildings or infrastructure. Full details, calculations, dimensions and location of the percolation tests and the proposed soakaways should be submitted for approval. Surface water should pass through a silt trap or catchpit prior to entering the soakaway to reduce sediment build up within the soakaway.

Reason: To ensure that soakaways, for the disposal of surface water drainage, are suitable for the development site.

2. If non permeable surfacing is used on the new access, driveway and parking area or the new access/ driveway slopes towards the highway, the applicant should submit for approval a surface water drainage system to intercept water prior to flowing on to the public highway.

Reason: To ensure that no surface water runoff from the new access/ driveway runs onto the highway.

3. Highway gullies are typically designed to accept flows up to the 5 year rainfall event only, with exceedance flows being generated beyond this return period. Confirmation is required that the gullies will be able to convey the 100 year plus 30% storm to the proposed surface water system. Alternatively, a contoured plan of the finished road levels should be provided together with confirmation that the design has fulfilled the requirements of Shropshire Councils 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. Exceedance flow path should be provided 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.

Reason: To ensure that the proposed surface water drainage systems for the site are fully compliant with regulations and are of robust design.

4. Urban creep is the conversion of permeable surfaces to impermeable over time e.g. surfacing of front gardens to provide additional parking spaces, extensions to existing buildings, creation of large patio areas. The appropriate allowance for urban creep must be included in the design of the drainage system over the lifetime of the proposed development. The allowances set out below must be applied to the impermeable area within the property curtilage:

Residential Dwellings per hectare Change allowance % of impermeable area

Less than 25 10

30 8

35 6

45 4

More than 50 2

Flats & apartments 0

Note: where the inclusion of the appropriate allowance would increase the total impermeable area to greater than 100%, 100% should be used as the maximum. Curtilage means area of land around a building or group of buildings which is for the private use of the occupants of the buildings.

Reason: To ensure that the proposed surface water drainage systems for the site are designed for any future extensions of impermeable surfaces.

5. Informative: As part of the SuDS, the applicant should consider employing measures such as the following:

Water Butts

Rainwater harvesting system

Permeable surfacing on any new access, driveway, parking/paved area

Greywater recycling system

Attenuation

Green roofs

Reason: To ensure that, for the disposal of surface water drainage, the development is undertaken in a sustainable manner.

6. Informative: On the Surface Water Flood Map, the southern boundary is at risk of surface water flooding. The applicant should ensure that the finished floor levels are set above any known flood level.

Reason: To minimise the risk of surface water flooding.

4.4 Coal Authority – No consultation required; site located within the defined Development Low Risk Area; no requirement for a coal mining risk assessment to be submitted

If this proposal is granted planning permission, it will be necessary to include The Coal Authority's Standing Advice within the Decision Notice as an informative note to the applicant in the interests of public health and safety.

4.5 SC Ecology – No Objection:

I have read the above application and the supporting documents including the Phase 1 Environmental Survey conducted by Greenscape Environmental Ltd (February 2015). Please include the conditions and informatives below on the decision notice.

Nesting boxes

A total of 2 woodcrete artificial nests suitable for small birds such as robin, blackbird, tit species, sparrow and swallow shall be erected on the site prior to first occupation of the buildings hereby permitted.

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

Roosting boxes

A total of 2 woodcrete bat boxes suitable for nursery or summer roosting for small crevice dwelling bat species shall be erected on the site prior to first use of the building hereby permitted. All boxes must be at an appropriate height above the ground with a clear flight path and thereafter be permanently retained.

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

Lighting

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.

Nesting birds

The active nests of all wild birds are protected under the Wildlife & Countryside Act 1981 (As amended). An active nest is one being built, containing eggs or chicks, or on which fledged chicks are still dependent. All clearance, conversion and demolition work in association with the approved scheme shall be carried out outside of the bird nesting season which runs from March to September inclusive

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

Trenches

Where possible trenches should be excavated and closed in the same day to prevent any wildlife becoming trapped. If it is necessary to leave a trench open overnight then it should be sealed with a closefitting plywood cover or a means of escape should be provided in the form of a shallow sloping earth ramp, sloped board or plank. Any open pipework should be capped overnight. All open trenches and pipework should be inspected at the start of each working day to ensure no animal is trapped.

4.6 SC Affordable Housing – Comment:

As an Outline application, the affordable housing contribution will be based on the prevailing target rate at the time of the Reserved Matters or full application. If the current prevailing target rate remains as existing, then a financial contribution will be required. I would welcome an opportunity to discuss the Unilateral Undertaking with the Council's Solicitor, given that it is likely to need an amendment.

4.7 SC Highways Development Control – No Objection:

Highway Observations & Comments:

The site is currently 'greenfield' (agricultural) and is served from an existing private track with an access to the adjacent Bridgnorth Road (B4555). The point of access is located on the apex of an outside of bend on the classified highway. The road frontage is predominantly developed and residential in nature as well as being subject to a 30mph speed limit.

This development will also significantly increase the likelihood of slow moving and stationary vehicles undertaking turning movements at this location, which would not be unexpected in this semi urban environment. Therefore, as long as the proposed new access is constructed to an appropriate specification, including satisfactory visibility splays, parking and turning areas, then there is unlikely to be any issues for highway safety, associated with this development proposal.

Conditions:**E1. New Access**

No development shall take place until details of the means of access, including the layout, construction and sightlines have been submitted to and approved by the Local Planning Authority. The agreed details shall be fully implemented before the use hereby approved is commenced or the building(s) occupied.

Reason: To ensure a satisfactory means of access to the highway.

E2. Road Design

No development shall take place until details of the design and construction of any new roads, footways, accesses together with details of the disposal of highway surface water have been submitted to, and approved by the Local Planning Authority. The agreed details shall be fully implemented before the use hereby approved is commenced or the building(s) occupied.

Reason: To ensure a satisfactory access to the site.

E5. On-site Construction

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:

- the parking of vehicles of site operatives and visitors
- loading and unloading of plant and materials
- storage of plant and materials used in constructing the development
- the erection and maintenance of security hoarding including decorative

- displays and facilities for public viewing, where appropriate
- wheel washing facilities
- measures to control the emission of dust and dirt during construction
- 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.

E8. Access Prior to other operations

Before any other operations are commenced, the proposed vehicular access and visibility splays, shall be provided and constructed to base course level and completed to the approved drawings before the development is fully occupied and thereafter maintained. The area in advance of the sight lines shall be kept permanently clear of all obstructions.

Reason: To ensure that the development should not prejudice the free flow of traffic and conditions of safety on the highway nor cause inconvenience to other highway users.

Informatives:

HN1. Mud on highway

The applicant is responsible for keeping the highway free from any mud or other material emanating from the application site or any works pertaining thereto.

HN5. Protection of visibility splays on private land

The applicant's attention is drawn to the need to ensure that the provision of the visibility splay(s) required by this consent is safeguarded in any sale of the application site or part(s) thereof.

HN8. Provision of access over footway or verge (S.184 License)

This planning permission does not authorise the applicant to construct any means of access over the publicly maintained highway (footway or verge).

HN10. Works within the highway (S.50 License)

This planning permission does not authorise the applicant to carry out works within the publicly maintained highway. The applicant should apply to the Coordination Manager at the appropriate Area Office: -

- **Bridgnorth - Bridgnorth.highways@Shropshire.gov.uk**

Who shall be given at least 3 months' notice of the applicant's intention to commence any works affecting the public highway so that the applicant can be provided with an appropriate licence, approved specification for the works together and a list of approved contractors, if required

4.8 Shropshire Area Ramblers – Comment:

Please note that Section 24 of the Planning Application has been completed incorrectly as the farm access track indicated on the Location and Block Plan is also a Public Bridleway Highley 0127/13/1. Please make this mistake clear to the Applicant. It was correctly identified on the previous Planning Application, but no mention of the Right-of-Way was included in that Design and Access Statement, a fact on which the Rights-of-Way Department commented. It was also mentioned in

the Development Management Report. As a result of this, please check that there are no other discrepancies between this and the previous Planning Application.

-Public Comments

(The comments received are summarised below and may be inspected in full on the Council's web site)

4.9 2 Objections:

-Objections made to appeal application 15/02212/NONDET still apply.

-Proposed works will affect all neighbouring properties restricting their view over the surrounding countryside; this was one of the primary reasons he purchased his property in April 2015.

-Serious impact upon standard of living.

-Loss of privacy and overlooking.

-Application does not state how foul sewage will be disposed of.

-Water pressure in summer is regularly poor.

-Application form incorrect in stating no trees affected as site includes two rows of trees that run along the length of the bridleway.

-Site can be seen from the bridleway and public footpath.

-If the Council's only objection to development in this area was the lack of an affordable housing contribution it shows that local residents concerns and feelings are not considered when planning the future of the village; rhetoric that local wishes are taken into account is completely false.

-Important to protect valuable farm/grazing/pasture land from unnecessary development; still ample unused vacant brownfield land within the village boundary.

-Further development down the prominent ridge of the Severn Valley would further detract from the appearance of the attractive unspoilt countryside.

-Access to/from site on a dangerous bend near brow of a hill, where pedestrians frequently cross the road

-Several accidents have occurred in the last five years on this bend.

-B4555 Road in poor condition.

-Proposed access is a bridleway regularly used by horse riders.

-Local amenities substandard for the size of the village.

-Few employment opportunities in the area.

5.0 THE MAIN ISSUES

Principle of development

Access and Highway Safety

Right of Way

Layout and Scale

Visual impact and landscaping

Drainage

Biodiversity

Residential and neighbour amenity

Open Space
Affordable Housing Contribution
Impact on local services

6.0 OFFICER APPRAISAL

6.1 Principle of development

- 6.1.1 The determination of a planning application is to be made pursuant to section 38(6) of the Planning and Compulsory Purchase Act 2004, which is to be read in conjunction with section 70(2) of the Town and Country Planning Act 1990. Section 38(6) requires the local planning authority to determine planning applications in accordance with the development plan, unless there are material circumstances which 'indicate otherwise'. Section 70(2) provides that in determining applications the local planning authority "shall have regard to the provisions of the Development Plan, so far as material to the application and to any other material considerations." The Development Plan consists of the adopted Shropshire Core Strategy and the adopted Site Allocations and Management of Development (SAMDev) Plan 2015 for the Highley area..
- 6.1.2 The National Planning Policy Framework promotes sustainable development and states that new housing applications should be considered in the context of the presumption in favour of sustainable development. Notwithstanding that presumption, paragraph 2 of the Framework reiterates that planning law requires that applications for planning permission must be determined in accordance with the Development plan, unless material considerations indicate otherwise.
- 6.1.3 Policy CS1 establishes a settlement hierarchy with new development focussed in Shrewsbury, the Market Towns, identified Key Centres and, in the rural areas, the Community Hubs and Community Clusters. These are considered to be the most sustainable places to deliver the overall strategy of managed growth which will reinvigorate smaller settlements within the rural areas using an approach termed 'rural rebalancing'. The application site is situated immediately adjacent to, but outside of the development boundary for Highley, which Policy CS3 (The Market Towns and Other Key Centres) identifies as a settlement which will have development that balances environmental constraints with meeting local needs. The application site constitutes open countryside where new build housing is normally limited to dwellings to house essential countryside workers or affordable housing to meet local needs. The proposed bungalows in this case would not fall into either of these categories.
- 6.1.4 SAMDev Plan policy MD3 relates to the delivery of housing development. It advises that in addition to supporting the development of allocated housing sites, permission will also be granted for other sustainable housing development having regard to the policies in the Local Plan, particularly Policies CS2, CS3, CS4, CS5, MD1 and MD7a., Whilst this policy is supportive of the principle of windfall housing, which this proposal could be regarded as being an example of, section 2 of the policy makes it explicit that the settlement housing guideline is a significant policy consideration. Section 3 of the MD3 policy states that where a settlement housing guideline appears unlikely to be met, additional sites outside the settlement boundaries that accord with the settlement policy may be acceptable subject to the

considerations set out in section 2 of the policy, which relate to i) the increase in number of dwellings relative to the guideline; and ii) the likelihood of delivery of outstanding permissions; and iii) the benefits arising from the development; and iv) the impacts of the development, including cumulative impacts of a number of developments in a settlement; and v) the presumption in favour of sustainable development.

- 6.1.5 SAMDev Policy S9 relates to the Highley Area. Policy S9.1.1 states that, to support the settlement's role as a key centre, Highley will have growth of around 200 dwellings in the period up to 2026. Policy 9.1.2 states that new housing development will be delivered primarily on the allocated housing site at Rhea Hall, alongside additional small-scale infill and windfall development within the town's development boundary. The supporting explanation for this policy is set out on paragraphs 4.96 and 4.97 of the SAMDev Plan which state:

"4.96 The scale of future development proposed in Highley reflects its role in meeting local needs with a growth aspiration of around 200 houses and a minimum of 0.6 ha of new employment land between 2006 and 2026. Since around 162 houses have already been built since 2006 or have planning permission for development, the SAMDev Plan makes provision for about a further 38 new houses to help deliver the local aspiration for growth.

4.97 To deliver this, a site at Rhea Hall is allocated for around 30 houses with access off Coronation Street. This allocation sits in a predominantly residential area with good access to services in the town. The site does not extend Highley along the B4555 or to the west or east of the prominent ridge on which the village stands. In addition to the site allocation, there are further limited opportunities for development of windfall sites within the existing development boundary. Shropshire Council has also resolved to grant permission for residential development at Jubilee Drive (ref: 13/04789/OUT), subject to S106 AGREEMENT, which is in addition to the SAMDev requirement."

The Jubilee Drive development of 58 dwellings is now underway. With regard to the allocated housing site at Rhea Hall, that site has also received planning permission (ref 12/02334/OUT; 15/01269/REM and 15/05128/REM) and work has commenced. However the scheme being implemented by Shropshire Towns and Rural housing is only for 17 bungalows, and not 30 properties as envisaged by the SAMDev allocation.

- 6.1.6 The site is considered to be in a sustainable location and its layout and scale are appropriate for the area. The development would relate to existing built development being bounded by housing to the south and west does not represent significant encroachment into the surrounding countryside. It is considered on balance the scheme would not be of significant detriment to visual amenity or the character and appearance of the Severn Valley. The scheme can be implemented without compromising highway safety or exacerbating flooding, further the scheme can be development in a manner so as not to result in undue harm on residential amenity.

6.1.7 However, the development would be on land outside of the development boundary for Highley shown in the SAMDev Plan and would not be affordable housing or essential rural workers accommodation, which is normally the only form of new build dwellings that may be acceptable outside of the Market Towns and other Key Centres (Core Strategy policy CS3) and Community Hubs and Clusters (Core Strategy policy CS4).

Having regard to the considerations that are applicable to such situations set out in SAMDev policy MD3.2, and setting to one side the proposals location outside the development boundary, the increase is relatively modest for this CS3 settlement, given only nine properties are proposed; the provision of bungalow accommodation has often been requested in development proposals for the area; the impact nine 2 bedroomed bungalows on village services would be limited; and the site, in location terms, is in a very sustainable location with good access to village services by non-car modes of travel and would cause no environmental harm. The development would make a small contribution to boosting housing supply.

6.1.8 On the other hand, with Shropshire Council being able to demonstrate a five year plus supply of housing land, it can be argued that there is no compelling reason to release land for open market residential development on land outside the development boundary of a policy CS3 settlement at the present time. Policy MD3.3 envisages new build open market housing beyond a settlement boundary as a possibility, but only where the settlement housing guideline appears unlikely to be met. The latest available housing figures indicate cumulatively that completions (86), commitments (92) and the recent consent for 30 dwellings on the Cedars site would total some 208 units in comparison to the housing guideline of around 200 dwellings for the plan period to 2026 set out in Policy S9, and there is no evidence that further infill and windfall development is unlikely to come forward within the Highley development boundary and be considered through MD3.2. It is not considered necessary or appropriate to engage policy MD3.3 by seeking additional sites outside of the Highley development boundary in an area of open countryside, and this would be contrary to the development strategy for the area. A core planning principle in the NPPF, set out in paragraph 17, is that development should be genuinely plan-led, empowering local people to shape their surroundings, and this is what the recently adopted SAMDev Plan has achieved, providing a practical framework within which decisions on planning applications can be made. The use of this land for residential development would undermine the NPPF's objective of a Plan-led approach to development.

6.1.9 The presumption in favour of sustainable development runs through the NPPF is a relevant material consideration, but it is not considered that this 'presumption in favour' should outweigh the significance and primacy of the up-to-date development plan policies in making decisions. On balance, it is considered that the proposal would not be acceptable, being contrary to Policies CS3, CS4 and CS5 of the Core Strategy, and SAMDev Policies MD1, MD3, MD7a and S9.

6.2 Access and Highway Safety

6.2.1 The NPPF, at section 4, seeks to promote sustainable transport. At paragraph 32 it states that decisions should take account of whether safe and suitable access to the site can be achieved for all people and that:

“Development should only be prevented or refused on transport grounds where the residual cumulative impacts of development are severe.”

- 6.2.2 Core Strategy policy CS6 seeks to ensure that proposals likely to generate significant levels of traffic be located in accessible locations, where opportunities for walking, cycling and use of public transport can be maximised and the need for car based travel reduced. It also seeks to secure safe developments, which requires the local road network and access to the site to be capable of safely accommodating the type and scale of traffic likely to be generated. A transport assessment accompanies this application.
- 6.2.3 To comply with the ‘Manual for Streets’ documents the splays would need to be 2.4m by 43m. The Councils Highways Officer considers that on the basis that a typical domestic dwelling generates on average 6 vehicle movements per day the 9 dwellings proposed would generate possibly 54 movements, plus any associated with the farm access, although it is noted that the dwellings are bungalows and are likely to be occupied by older people who may not make as many journeys each day.
- 6.2.4 The scheme proposes to utilise the existing access onto the B4555. This section of the highway is within a 30mph zone and in the vicinity of a number of domestic dwellings, each with their own access onto the road. As such drivers passing through Highley at this point would be expecting regular vehicle movements on and off the carriageway at all times due to the nature of the area.
- 6.2.5 Taking into consideration the above factors the Councils Highways Officer considers that whilst the proposal would have some effect on traffic flow through Highley the impact would not be of a level to cause detriment to highway safety. This assessment was accepted by the Committee in the consideration of the previous application 14/02129/OUT and the subsequent appeal was not dismissed on highway safety grounds. Planning conditions on any approval issued would relate to access construction and sight lines; road construction within the site and the submission for approval of a Construction Method Statement.

6.3 Right of Way

- 6.3.1 It is noted that part of Bridleway 13 Highley runs along the first section of the access to the proposed development. Should permission be granted the developers would need to either apply to divert the Bridleway or seek to incorporate solutions to secure the safety of users of the right and way. It is considered that there is ample space either side of the proposed access to enable the development of either solutions.

6.4 Layout and Scale

- 6.4.1 Core Strategy policy CS6 seeks to ensure that all development is appropriate in scale, density, pattern and design taking into account the local context and character. Policy CS17 also seeks to protect and enhance the diversity, high quality and local character of Shropshire’s natural, built and historic environment. SAMDev policy MD2 gives further guidance on seeking to ensure developments contribute positively to local character and amenity.

- 6.4.2 Although the appearance of the properties is indicated through the provision of a front and side elevation drawing this is indicative only as the appearance is reserved for later approval. The current submission however does allow for consideration as to whether the layout, density and scale are appropriate or not in relation to the context in which it is proposed.
- 6.4.3 The proposed site plan (drawing number Highley Pr-01-Rev C) shows a cul-de-sac of nine detached bungalows to sit around the turning head and the section of the new access road to the rear of the properties facing the Bridgnorth Road. Each bungalow is proposed to have its own parking, and gardens. Four of the bungalows are proposed to have their own accesses off the turning head, with the remaining five sharing two separate drives before splitting into separate parking spaces next to their bungalows. The elevation drawings show a ridge height of approximately 5.3m and an eaves height of around 2.3m.
- 6.4.4 The existing residential dwellings in the area vary in type and size and the majority have spacious gardens. The application site is considered to be of relatively low density which results in the proposed plots being spacious, this and the single storey nature of the dwellings would be fitting for an edge of settlement location such as this and compliments the character of the surrounding estates.

6.5 Visual Impact and landscaping

- 6.5.1 The site forms part of a 'broad location' considered to have medium capacity for housing in the Landscape Sensitivity study (part of the evidence base that informed consideration of sites within the SAMDev Plan preparation) and is considered 'moderate' in the generalised landscape character assessment. The site is much smaller than the broad location in the landscape sensitivity study but clearly the impact on the setting of Highley, recognising the prominent ridge upon which the village stands, and its potential impact on the visual amenity of the area and the Severn Valley needs careful consideration when determining the application.
- 6.5.2 The site adjoins the current development boundary that runs along the eastern edge of Highley. The proposed layout shows that the built part of the proposal would not project past the existing built development at Vicarage Lane as such it is considered that the scheme would relate well with existing built development and would not encroach significantly into the open countryside.
- 6.5.3 It is acknowledged that due to the location of Highley on the ridge the built development at the edge of Highley is visible from public view points in the wider landscape and it is inevitable that the proposed development would, like the adjacent dwellings, be visible.
- 6.5.4 The scale and density of the development is considered appropriate for the size of the application site and its edge of settlement location. The single storey nature of the dwellings would create a low level development which would go some way towards reducing the potential visual impact. Landscaping and appearance of the dwellings are matters to be dealt with at reserved matters stage should outline planning permission be granted, however it is considered that there is sufficient space to enable the integration of design solutions and landscaping which takes into account the sloping nature of the site to further help mitigate potential impacts

on the visual character and appearance of the area. Given these factors it is considered on balance that the impact on visual amenity and the Severn Valley would not be significantly detrimental to justify refusal. The Appeal Inspector on the previous application 14/02129/OUT concurred with this assessment, as may be seen from the paragraphs from the appeal decision letter at 1.5 above.

6.6 Drainage

6.6.1 Core Strategy policy CS18 relates to sustainable water management and seeks to ensure that surface water will be managed in a sustainable and coordinated way, with the aim to achieve a reduction in existing runoff rate and not to result in an increase in runoff. The Councils drainage team are satisfied that subject to conditions securing details of the drainage method, the development can be adequately drained without causing or exacerbating flooding in the site or vicinity.

6.7 Biodiversity

6.7.1 National guidance gives a duty to public bodies (including Local Planning Authorities) to ensure development does not harm protected species or its habitat. The National Planning Policy Framework (NPPF) emphasises that Local Planning Authorities should ensure development contributes to and enhances the natural and local environment including minimising impacts on biodiversity and providing net gains where possible. Core Strategy policy CS17 and SAMDev Plan policy MD12 set out how biodiversity will be protected and enhanced. A Biodiversity Survey and Report has been submitted with this application. The Council's Ecology Team are content that biodiversity interests can be adequately safeguarded by conditions relating to the provision of artificial nests, bat boxes and external lighting.

6.8 Residential and neighbour amenity

6.8.1 Core Strategy Policy CS6 requires all development to safeguard the amenities of neighbouring residents. In this case the layout of the site has been submitted for approval, it is possible, in part, to consider the potential impact on the existing residents around the site, although without elevations and appearance of the dwelling it is not considered possible to fully establish the impact.

6.8.2 There are residential dwellings to the south and west of the application site, there is no right to a view across private land. In terms of the risk of overlooking, loss of light and overbearing impacts as a result of the development the layout plan submitted indicates that there would be minimum separation distance between the existing and proposed dwellings of approximately 14m with the dwellings to the south and around 27m with the dwellings to the west. Such distances are normally accepted as being sufficient so as not to result in undue impacts on light, privacy or overbearing development.

6.8.3. The single storey nature of the dwellings further limits the potential for the development to be overbearing and the risk of overlooking is generally less as appropriate boundary treatments can be sought that can act as effective screening between properties and protect privacy. Such boundary treatment can be sought through the landscaping proposal for the site, which would be considered during any reserved matters application.

6.8.4 It is almost inevitable that building works anywhere will cause some disturbance to adjoining residents. The SC Public Protection recommend hours of working (07.30 to 18.00 hours Monday to Friday; 08.00 to 13.00 hours Saturdays and not on Sundays and Bank Holidays) to mitigate the temporary impact could be conditioned on any approval issued, along with a condition requiring a construction method statement. The potential impact on the value of a dwelling is not a material planning consideration.

6.9 Open Space

6.9.1 The amount of open space that should be sought in housing developments is set out SAMDev policy MD2 and the associated Open Space Interim Planning Guidance adopted in January 2012, and is a standard of 30 square metres per bedroom. The amenity open space within the proposed development would be adjacent to the access road and would be sufficient for a scheme of nine 2 bedroomed bungalows. The equipping of any open spaces with formal play equipment would have to be through the use of Community Infrastructure (CIL) receipts.

6.10 Affordable Housing Contribution

6.10.1 Core Strategy Policy CS11 requires all new open market housing developments to make appropriate contributions to the provision of local need affordable housing having regard to the current prevailing target rate, set using the Shropshire Viability Index. For site of 5 dwellings and above the provision of affordable housing is expected on site. As the application is outline and council policy requires the number of affordable dwellings be set at the prevailing rate in force at the time of the submission of the reserved matters application: This is normally achieved through a Section 106 Agreement signed by all parties, including the Council, which refers to the formula figure rather than provide a specific number.

6.10.2 An acceptable alternative is for an applicant to submit a unilateral undertaking to achieve the same end. The Council's Affordable Housing Team has commented that the unilateral undertaking submitted with this application is likely to need an amendment. Should the Committee resolve to grant planning permission in this case, the permission would not be issued until negotiations on the content of this legal agreement have been satisfactorily completed.

6.11 Impact on Local Services

6.11.1 Concerns have raised comments about the capacity of local infrastructure and services to cope with the additional demand arising from a further 9 houses being built. It is the duty of the individual service providers to respond to increased demand in line with Government requirements. Many of the services, including the Education and Health Authorities, are involved at a strategic level in local planning and develop their services in accordance with projected increases in population. The development would pay a Community Infrastructure Levy.

7.0 CONCLUSION

7.1 The site is considered to be in a sustainable location and the proposed layout and scale would be appropriate for the area. The development would relate to existing built development being bounded by housing to the south and west would not represent significant built, encroachment into the surrounding countryside. It is

considered on balance the scheme would not be of significant detriment to visual amenity or the character and appearance of the Severn Valley. The scheme can be implemented without compromising highway safety or exacerbating flooding, further the scheme can be developed in a manner so as not to result in undue harm on residential amenity. The Inspector in the July 2015 appeal decision, prior to the adoption of the SAMDev Plan, reached these same conclusions about the proposed development.

- 7.2 However, the development would be on land outside of the development boundary for Highley shown in the now adopted SAMDev Plan and would not be affordable housing or essential rural workers accommodation, which are normally the only form of new build dwellings that may be acceptable outside of the Market Towns and other Key Centres (Core Strategy policy CS3) and Community Hubs and Clusters (Core Strategy policy CS4) allowed for by Core Strategy policy CS5 and SAMDev policy MD7a. Having regard to the considerations that are applicable to such situations set out in SAMDev policy MD3.2, and setting aside the location being outside of the village development boundary, the increase in the number of dwellings proposed for the context of a CS3 settlement is relatively modest, given only nine properties are proposed; the provision of bungalow accommodation has often been requested in development proposals for the area; the impact nine 2 bedroomed bungalows on village services would be limited; and the site, in location terms, is in a very sustainable location with good access to village services by non-car modes of travel and would cause no environmental harm. The development would also make a small contribution to boosting housing supply.

On the other hand, with Shropshire Council being able to demonstrate a five year plus supply of housing land, it can be argued that there is no compelling reason to release land for open market residential development on land outside the development boundary of this policy CS3 settlement at the present time. Policy MD3.3 envisages new build open market housing beyond a settlement boundary as a possibility, but only where the settlement housing guideline appears unlikely to be met (MD3.3). Cumulatively, the proposal, taking into account completions (86), commitments (92) and the consent for 30 dwellings on the Cedars site would total some 208 units in comparison to the housing guideline of around 200 dwellings for the plan period to 2026 set out in Policy S9, and there is no evidence that further infill and windfall development is unlikely to come forward within the Highley development boundary and be considered through MD3.2. It is not considered necessary or appropriate to engage policy MD3.3 by seeking additional sites outside of the Highley development boundary in an area of open countryside, and this would be contrary to the development strategy for the area. A core planning principle in the NPPF, set out in paragraph 17, is that development should be genuinely plan-led, empowering local people to shape their surroundings, and this is what the recently adopted SAMDev Plan has achieved, providing a practical framework within which decisions on planning applications can be made. The use of this land for residential development would undermine the NPPF's objective of a Plan-led approach to development.

The presumption in favour of sustainable development runs through the NPPF is a relevant material consideration, but it is not considered that this 'presumption in favour' should outweigh the significance and primacy of the up-to-date

development plan policies in making decisions. On balance, it is considered that the proposal would not be acceptable, being contrary to Policies CS3, CS4 and CS5 of the Core Strategy, and SAMDev Policies MD1, MD3, MD7a and S9.

8.0 Risk Assessment and Opportunities Appraisal

8.1 Risk Management

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

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

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

8.2 Human Rights

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

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

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

8.3 Equalities

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

9.0 Financial Implications

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

10. Background

Relevant Planning Policies

Central Government Guidance:
National Planning Policy Framework
National Planning Practice Guidance

Shropshire Core Strategy:
CS1 Strategic Approach
CS3 The Market Towns and other Key Centres
CS4 Community Hubs and Clusters
CS5 Countryside and Green Belt
CS6 Sustainable Design and Development Principles
CS9 Infrastructure Contributions
CS10 Managed Release of Housing Land
CS11 Type and Affordability of Housing
CS17 Environmental Networks
CS18 Sustainable Water Management

Site Allocations and Management of Development (SAMDev) Plan:
MD1 Scale and Distribution of Development
MD2 Sustainable Design
MD3 Delivery of Housing Development
MD7a Managing Housing Development in the Countryside
MD12 The Natural Environment
MD13 The Historic Environment
S9 Highley Area

SPD on the Type and Affordability of Housing
Open Space IPG

RELEVANT PLANNING HISTORY:

14/02129/OUT Outline application for residential development to include access, layout and scale 15th July 2015

Appeal

15/02212/NONDET Outline application for residential development to include access, layout and scale DISMIS 13th July 2015

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

Design and Access Statement

Transport Assessment

Biodiversity Survey and Report

Unilateral Undertaking

Cabinet Member (Portfolio Holder)

Cllr M. Price

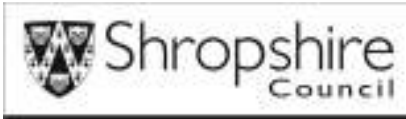
Local Member

Cllr Dave Tremellen

Informatives

1. Despite the Council wanting to work with the applicant in a positive and proactive manner as required in the National Planning Policy Framework paragraph 187, the proposed development is contrary to the policies set out in the Committee Report and referred to in the reason for refusal, and it has not been possible to reach an agreed solution.

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Committee and date

South Planning Committee

1 March 2016

Development Management Report

Responsible Officer: Tim Rogers

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

Summary of Application

Application Number: 15/05359/FUL	Parish:	Much Wenlock
Proposal: Restoration of disused quarry to restore habitat, in particular to encourage the re-growth of calcareous grassland (UK Biodiversity Action Plan priority habitat), utilising surplus material from proposed attenuation ponds that will form the Much Wenlock Flood Alleviation Scheme		
Site Address: Westwood Quarry Stretton Westwood Much Wenlock Shropshire TF13 6DD		
Applicant: Mr David Edwards		
Case Officer: Richard Fortune	email: planningdmse@shropshire.gov.uk	

Grid Ref: 359618 - 298370



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

- 1.1 This application relates to some 4.2 hectares of land, which is a former quarry. Planning permission has been given for the construction of two attenuation ponds on the outskirts of Much Wenlock as part of the flood alleviation scheme for the Town. These consents comprise 14/01753/FUL for a pond on the Shylte Brook near to Bridge House, off Stretton Road, Much Wenlock, and 14/01754/FUL also on the Shylte Brook and located at the end of Sytche Lane to the north of the town. The excavation of these ponds will result in 26,000 cubic metres and 13,000 cubic metres of surplus material respectively once pond landscaping has been completed. Initial ground investigations have established that this material is largely naturally occurring soil, gravel and limestone that is inert and uncontaminated. The material is from the same geological strata and expected to have similar characteristics to that previously excavated from Westwood Quarry.
- 1.2 The proposal is to use the excavated material from the pond sites to partially restore Westwood Quarry and to create priority habitat (Calcareous grassland). (It is known that one pond includes some imported material associated with the historic railway which previously ran through part of the site. As far as possible this material would be reused within the pond site, but any that cannot be accommodated will be disposed of in a licenced tip elsewhere and not taken to Westwood Quarry.) There is currently some calcareous grassland present within the site boundary. The areas located to the west of the quarry, are on unquarried land. The only patch to have established within the quarry floor is shown towards the centre of the site. Calcareous grassland is a UK Biodiversity Action Plan (BAP) priority habitat. This has been identified as being one of the most threatened habitats, requiring conservation under the UK BAP. This grassland requires well drained soil formed by natural weathering of limestone or other calcareous rock, and which as low fertility.
- 1.3 The upper material to be excavated at the pond sites has been mainly in agricultural use and is generally expected to be too fertile for the immediate creation of the desired habitat. This material would be placed in the base of the proposed deposition areas to create the desired variable profiles, before it is covered with the less fertile material from the lower levels of the pond excavation. It is intended to place the material in such a way as to encourage a diverse ecostructure. This will include relatively steep side slopes, particularly the south facing ones. For the purposes of illustration and evaluation of quantities achieved the proposed sections show relatively smooth profiles. However it is intended that the final surface will be deliberately uneven, with localised hollows and hummocks, and if possible areas will be formed using rocks of the largest size which can be easily excavated from the pond sites i.e. large boulders will be left intact, rather than broken down to form a homogenous surface. A proposed sections drawing shows the extent of the proposed levels changes in the quarried areas, with the existing areas of calcareous grassland and broadleaf woodland retained. The maximum amount that existing ground levels would be raised in creating the uneven landscape would be by some 6.1 to 6.8 metres.

- 1.4 The finished mounds would be left with no additional imported topsoil, and would not be seeded with any imported seed mixture. Within the existing quarry floor, beneath the footprint of the mounds there are some areas of developing calcareous grassland, and these areas would be scraped off and temporarily stored for distribution on the finished mounds in areas to be agreed with the site ecologist. The long term requirements to establish the required vegetation would be limited to the control of scrub and other invasive species, and the grazing or occasional cutting to maintain and enhance the target grassland species. It is proposed to create ponds in an area between the main quarry face and one of the mounds, where there is a localised seepage of water from the face, which can be collected to maintain water levels. As the inlying strata is permeable it would be necessary to line the ponds with either clay puddle or a geosynthetic bentonite lining. Full details of the proposed ponds would be developed prior to the application for a Great Crested Newt licence, which can only be progressed after planning consent is granted. (Great Crested Newts are known to be present on site but there are no ponds suitable for breeding in the immediate area).
- 1.5 The site contains some more recent relics of past use within the areas where the mounds will be placed, and these would be removed in the case of scrap vehicles and machinery, or broken up or covered in the case of concrete slabs and other bases.

2.0 SITE LOCATION/DESCRIPTION

- 2.1 The site is situated some 2.5km to the south west of Much Wenlock. The site is bordered by the B4371 road to the northwest and by unclassified roads to the southwest and northeast. Other parts of the former quarry area are to the southeast. The majority of the quarry floor is currently bare ground, ephemeral/short vegetation, ruderal tall herb and broadleaved semi-natural woodland. The quarry floor is 10-15 metres lower than the B4371 which runs parallel to the site. The cliffs, hedges and woodland screen the quarry from the highway and adjacent land.
- 2.2 Part of the site is designated as a Site of Special Scientific Interest (SSSI). This part of the Wenlock Edge SSSI is primarily for geological features but also covers habitat and biodiversity. Westwood Quarry is noted as having one of the best exposures showing the large scale relationships between reef and inter-reefal sediments. One of the cliffs to the south west is important as it shows contact with the overlying Elton Beds.

3.0 REASON FOR COMMITTEE DETERMINATION OF APPLICATION

- 3.1 The proposed development is to be carried out by Shropshire Council and determination by Committee is required under the Council's scheme of delegation.

4.0 Community Representations

- Consultee Comments

- 4.1 Much Wenlock Town Council - No objection, but the Council would like to see strict traffic management during the works due to poor visibility with egress from the site on to the B4371 and the A458. The Council does not support the works being carried out during the winter months due to mud on the road and the hazards this may create.

4.2 SC Drainage – No Objection:

The management of the surface water runoff in the FRA using infiltration via informal swale-type arrangements and the creation of a calcareous grassland from the material excavated from the pond sites is unlikely to alter the greenfield run-off characteristics of the site therefore the proposals are acceptable.

4.3 SC Public Protection – No Objection:

Having regard to the conclusions in the Mouchel December 2015 report submitted with this application I can confirm that there is the potential for contaminants to be found on site at levels which require further investigation. As a result should this application be granted approval I recommend the following condition:

Contaminated land

a) No development, with the exception of demolition works where this is for the reason of making areas of the site available for site investigation, shall take place until a Site Investigation Report has been undertaken to assess the nature and extent of any contamination on the site. The Site Investigation Report shall be undertaken by a competent person and conducted in accordance with 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. Information on how to comply with conditions and what is expected of developers can be found in the Shropshire Councils Contaminated Land Strategy 2013 in Appendix 5.

4.4 Environment Agency – No Objection

Waste

The proposal is located within Flood Zone 1 (based on our indicative Flood Map for planning) and relates to the restoration of Westwood Quarry using wastes generated from two flood alleviation schemes in the local vicinity.

An Environmental Permit, in accordance with the Environmental Permitting Regulations (2010), will be required in order to carry out the proposed activity. The majority of the site is situated within a Site of Special Scientific Interest (SSSI). The standard rules permit for waste recovery can only be issued where sites are >500m from a SSSI. Therefore, in this circumstance, a Bespoke Permit would be required. This will control the testing of material to confirm the suitability of importation of waste to site etc.

Based on the information provided we do not see any significant cause for concern at this stage, without prejudice to the permit application, with consideration to the possible land use planning implications.

For pre-Permit discussions and/or to apply for a Bespoke Permit the applicant should contact Samantha Wilson in our EPR Waste team on telephone: 01743 283533 or samjwilson@environment-agency.gov.uk for more information.

Contaminated Land

The applicant recognises the former usage of the site. This includes a small area of landfill (reference PL/74) and some contamination from oils / hydrocarbons and fly-tipped wastes. These fly-tipped wastes and areas of contamination should be removed prior to any further tipping of wastes at this site. Our GIS records state that "a risk assessment carried out by the environmental health department suggests a low risk of landfill gas production or effects upon property". This report should be sourced by the applicant to gain a better insight into the risks of the contamination here.

Based on the scale nature of the proposal and the previous use of the site, we would make no comment on land contamination matters associated with this planning application. However, you are advised to seek the comments of your Public Protection / Environmental Health team and refer to the following standing advice: The National Planning Policy Framework (NPPF) takes a precautionary approach to land contamination. Before the principle of development can be determined, land contamination should be investigated to see whether it could preclude certain development due to environmental risk or cost of clean-up (remediation). For sites where land contamination may be present as a result of previous or current land use, the planning application should include appropriate information about this and demonstrate how the development will deal with any contamination present. This is so that the development does not cause or exacerbate contamination, and to ensure that it, future users and the environment are not at unacceptable risk from contamination.

This is a requirement of the NPPF and the National Planning Practice Guidance (NPPG). See paragraphs 109, 120, 121 and 122 of the NPPF, and the 'Land Affected by Contamination' section of the NPPG, available at:

<http://planningguidance.planningportal.gov.uk/blog/guidance/land-affected-by-contamination/land-affected-by-contamination-guidance/>

The applicant should identify whether the site has known or suspected contamination associated with it. Certain types of previous / current land uses are likely to have caused contamination. These include uses such as gasworks, landfills, industrial uses, petrol filling stations or land where fuel tanks have been sited, cemeteries, abattoirs, vehicle servicing garages, and land adjacent to major infrastructure routes such as railway cuttings and motorways. Intensive agricultural uses may also have caused contamination from chemicals and pesticides. For further information you may wish to refer to:

- The Council's Public Protection / Environmental Health Department – for historic records of landfilling or waste activities, and to ascertain whether the site has been determined as Contaminated Land under Part 2A of the Environmental Protection Act 1990.
- Historic land use maps

GIS layers showing closed/historic landfills and open /current landfills (your Council should already have these GIS layers from the Environment Agency, but if not they can be obtained via our Geostore.

Information that should be submitted with the planning application

Preliminary Risk Assessment: As a minimum the applicant must submit a Preliminary Risk Assessment. (This is also known as a Phase 1 Desk Study, and may include a site walkover.) The Preliminary Risk Assessment should include a '*conceptual site model*'. This model considers firstly all potential sources of contamination (i.e. information on all previous land uses that may have given rise to contamination), secondly any likely receptors (e.g. proposed future users of the site and ground or surface water on or off site) and thirdly any possible pathways between them (such as through the ground or along pipes as a result of development). Where all three exist this is defined as a pollutant linkage. The conclusions of the report should contain recommendations on how the contamination, if present, will be dealt with through the development so that the site can be made safe for users and the environment and will not cause or exacerbate pollution.

In some cases this information may be sufficient to determine whether the principle of development is acceptable subject to planning conditions to secure the conclusions of the report, such as further detailed investigation, site remediation and validation (see conditions section below).

In other cases there may be insufficient information at this stage to make a decision on the application, and more information may be required prior to determination. This is more likely to be the case if the site is particularly contaminated, the site setting is more sensitive or the end use proposed is particularly sensitive to contamination. In these cases the applicant will need to submit more detailed information.

Site Investigation Report: The next stage of more detailed information is a Site Investigation Report. (This is also known as a Phase 2 Detailed Site Investigation.) The 'Detailed Investigation' phase is the on-site validation of the conceptual model. Through intrusive investigation, chemical testing and quantitative risk assessment, the Phase 2 study can confirm possible pollutant linkages. It should also provide appropriate remediation options, if these are required.

For more complex sites, it is more likely by this stage that the applicant will have submitted enough information to establish that the site can be developed for the proposed use in a safe manner that will not lead to pollution or harm. At this stage therefore it is likely that a determination can be made. (There may still be some cases where additional information on the remediation measures / remedial actions – see below – is needed before permission can be granted). Where approval is given the decision notice should contain relevant conditions to secure the recommendations of the Preliminary Risk Assessment and Site Investigation Reports, such as site remediation, validation and any necessary monitoring.

Discharge of conditions after permission is granted

Once permission has been granted subject to conditions, the developer will need to deal with the contamination on site. This is the remediation phase. The remediation phase of the process is generally split into two parts – remediation and validation. The developer will need to submit relevant Reports for these parts of the process at the right time as part of a discharge of conditions application.

Remediation Strategy: This is a document detailing the objectives, methodology and procedures of the proposed remediation works. (It may also be called a Remediation Method Statement or Remedial Actions Statement or Report.) Where necessary it should also include a **verification plan** that provides details of the data that will be collected in order to demonstrate that the works set out in the Remediation Strategy are complete and identify any requirements for longer-term monitoring of pollutant linkages, maintenance and arrangements for contingency action. This should include any proposed phasing of demolition or commencement of other works to ensure development occurs in the right parts of the site in the correct sequence to ensure pollution is not caused. The developer should submit this information for approval before any works commence. Once this has been submitted and approved as part of the discharge of conditions application the development can proceed in the way the Remediation Strategy has set out.

Validation Report: Following completion of the works, the developer must submit a Validation Report as part of the discharge of conditions application. (It may also be called a Verification Report.) This document demonstrates that the works have been carried out satisfactorily in accordance with the Remediation Method Statement and that the remediation targets have been achieved. In most cases this will allow the planning conditions to be discharged in full.

Monitoring Programme: In some cases a programme of monitoring is required as part of the remediation phase, or as part of the validation to demonstrate the site has been satisfactorily remediated. Sometimes monitoring may be required for a longer time period after the development has been completed. The Remediation Method Statement (and possibly the earlier Preliminary Risk Assessment and Site Investigation Reports) should have made clear where this will be necessary and established in detail what will be involved.) Monitoring may be necessary for landfill gas, groundwater and surface water (such as taking samples from a watercourse

on a regular basis over a set period of time). Where these measures are necessary the planning conditions should include this, and in some cases a Section 106 Planning Agreement may be a more appropriate mechanism for securing necessary monitoring, such as when monitoring from off-site locations is required or if it is required for a particularly long time period.

Biodiversity

The plan to re use spoil to create calcareous grassland and Great Crested Newt habitat at Westwood Quarry is welcomed. The scheme has the double benefit of reducing the environmental pollution associated with the haulage of the spoil from the flood alleviation pools to a disposal site further away and the re-use of rare calcareous soil to create calcareous grassland. Calcareous grassland has been identified as being one of the most threatened habitats, requiring conservation under the UK Biodiversity Action Plan and it is designated as a habitat of principal importance for the conservation of in England under Section 41 of the NERC Act 2006. When planning to enhance a site it is important to assess the current habitat and species that are present to ensure that legally protected species or any uncommon or rare plants are not adversely affected by the enhancement scheme. Eco-Tech's Ecological Assessment Report has comprehensively assessed the current habitat and species at the site and has informed the restoration plan for Westwood Quarry that will avoid areas that currently provide valuable habit. The plans are to only create new habitat in areas of current low biodiversity and only import soil to areas where beneficial habitat can be created.

We have no objection to the proposed habitat creation as shown on Fig 8 of the design and access statement, providing the guidance is followed within the planning submission/Ecological Assessment report. The scheme should help improve Biodiversity and minimise run-off in line with WFD objectives. We would suggest that Natural England be consulted on the restoration plans.

Informative - an appropriate management plan should be agreed to include:

- *ongoing control of Japanese Knotweed*
- *scrub clearance to maintain exposure of designated geological features of the site*
- *clearance and / or suitable grazing of invasive scrub and vigorous grassland species on the grassland areas -Coppicing of woodland on the edges of the site and suitable management hedgerows;*

4.5 Natural England – No Objection: no conditions requested.

This application is in close proximity to Wenlock Edge Site of Special Scientific Interest (SSSI). Natural England is satisfied that the proposed development being carried out in strict accordance with the details of the application, as submitted, will not damage or destroy the interest features for which the site has been notified. We therefore advise your authority that this SSSI does not represent a constraint in determining this application. Should the details of this application change, Natural England draws your attention to Section 28(1) of the Wildlife and Countryside Act 1981 (as amended), requiring your authority to re-consult Natural England.

These conditions are required to ensure that the development, as submitted, will not impact upon the features of special interest for which Wenlock Edge Site of Special Scientific Interest (SSSI) is notified.

Natural England notes that the applicants positively engaged with Natural England

via our pre-application Discretionary Advice Service. As part of this, the special features of the Wenlock Edge Site of Special Scientific Interest (SSSI) were discussed and geological and biodiversity / habitat advice sought and received. Other advice

We would expect the Local Planning Authority (LPA) to assess and consider the other possible impacts resulting from this proposal on the following when determining this application:

- local sites (biodiversity and geodiversity);
- local landscape character; and
- local or national biodiversity priority habitats and species.

Natural England does not hold locally specific information relating to the above. These remain material considerations in the determination of this planning application and we recommend that you seek further information from the appropriate bodies (which may include the local records centre, your local wildlife trust, local geoconservation group or other recording society and a local landscape characterisation) in order to ensure the LPA has sufficient information to fully understand the impact of the proposal before it determines the application. A more comprehensive list of local groups can be found at Wildlife and Countryside link.

Protected Species

Where there is a reasonable likelihood of a protected species being present and affected by the proposed development, the LPA should request survey information from the applicant before determining the application (Paragraph 99 Circular 06/05)¹.

Natural England has produced standing advice, which is available on our website Natural England Standing Advice to help local planning authorities to better understand the impact of particular developments on protected or BAP species should they be identified as an issue. The standing advice also sets out when, following receipt of survey information, local planning authorities should undertake further consultation with Natural England.

4.6 SC Ecology – No Objection:

Great Crested Newts

Great crested newts have been recorded within the site boundary. There are currently no ponds within Westwood Quarry and it is concluded that newts are able to get into the quarry but not able to get back out due to the step cliff sides (15m tall). There are 5 ponds within 250m of the site. As there are works within 50-250m of a confirmed great crested newt breeding pond Eco Tech has recommended that works should be undertaken under mitigation licence from Natural England. The site will be fenced and cleared prior to works. In addition to the creation of calcareous grassland there will be the formation of 2 wildlife ponds and 2 herptile refuges.

Dormice

There is a known dormouse population at Wenlock Edge (within 500m of the proposed site). The larger areas of woodland on site are considered to be moderately suited to dormouse use in that they have a contiguous canopy and a dense shrub layer. The smaller patches and thin strips, such as that within the

proposed works area are considered to be poorly suited to dormouse use in that it has a discontinuous canopy with no nut bearing trees or shrubs. A population may be present within the application area, but is considered unlikely to occur within the proposed works area. Given the small extent of moderately suitable habitat present, the application area is considered likely to be of site value for this species. However, the small area of poorly suitable habitat present within the proposed works area is considered to be of negligible value for this species. The vast majority of woodland will be retained in-situ by design. It will also be taped or fenced as required to discourage accidental access by machinery. A method statement for dormice has been produced by Eco Tech and will be followed to further reduce any potential impact on the species. SC Ecology would encourage that a woodland management plan is created on site specifically designed to enhance the site for dormice (a European protected species). SC Ecology recommend that Hazel and Honeysuckle are planted within the woodland/woodland edge and a management plan created and followed to allow light into the woodland and create a diverse understory to include bramble.

Bat

The cliffs on site have moderate potential to support bat roosts, especially hibernation roosts. It is considered highly unlikely that the proposal will impact on bats. Avoidance of potential roost sites will include taped or fenced buffers as required to discourage accidental access by machinery.

Badger

A single entrance outlier sett is present at the eastern end of the application area, some 20m beyond the limit of the proposed works area. Mitigation is largely the design of the work which avoids the sett entrance by some 20m. It will also be taped or fenced as required to discourage accidental access by machinery.

Designated Sites

Part of the application area is within the boundaries of the Wenlock Edge Site of Special Scientific Interest (SSSI).

Natural England is satisfied that the proposed development being carried out in strict accordance with the details of the application, as submitted, will not damage or destroy the interest features for which the site has been notified. The SSSI does not represent a constraint in determining this application.

Calcareous Grassland

The proposal will create areas of priority habitat (1.45 ha). The transported topsoil will be placed first (at the base of the mounds), then the sub-soils on top of this until finally any bedrock (suitably broken up as part of the excavation). South facing steep slopes/cliffs have been incorporated into the proposals, providing habitat for ephemeral plant species and burrowing bees and wasps. A full habitat management plan should include the future management of the site.

Peregrine and other bird species

Any removal of vegetation should be restricted to the period between September and February (inclusive), in order to minimise any potential for damage or destruction of active nest and so comply with existing legislation for most bird species. On completion of the works the cliff nest site will still be available for use.

Invasive species

Areas of invasive Japanese knotweed are understood to have already been treated by injection with herbicide in autumn 2015. Control will continue in line with the latest government guidance.

Please include the following conditions and informatives below on the decision notice;

1. Work shall be carried out strictly in accordance with the Ecological Assessment conducted by Eco Tech dated December 2015 attached as an appendix to this planning permission.

Reason: To ensure the protection of Great Crested Newts, Dormice, Bats (Conservation of Habitats and Species Regulations), Badgers (badgers Act), Nesting Birds (Wildlife & Country Side Act).

2. No development, demolition or site clearance procedures that have the potential to impact upon great crested newts shall commence until a European Protected Species (EPS) Mitigation Licence with respect to great crested newts has been obtained and submitted to the local planning authority for the proposed work prior to the commencement of works on the site. Work shall be carried out strictly in accordance with the granted EPS Mitigation Licence.

Reason: To ensure the protection of Great Crested Newts, a European Protected Species

3. No development or clearance of vegetation shall take place until a Wildlife Protection plan has been submitted to and approved in writing by the local planning authority. The plan shall include:

- a. An appropriately scaled plan showing 'Wildlife/habitat Protection Zones' where construction activities are restricted and where protective measures will be installed or implemented;
- b. Details of protective measures (both physical measures and sensitive working practices) to avoid impacts during construction;
- c. Persons responsible for:
 - i) Compliance with legal consents relating to nature conservation;
 - ii) Compliance with planning conditions relating to nature conservation;
 - iii) Installation of physical protection measures during construction;
 - iv) Implementation of sensitive working practices during construction;
 - v) Regular inspection and maintenance of physical protection measures and monitoring of working practices during construction;
 - vi) Provision of training and information about the importance of 'Wildlife protection zones' to all construction personnel on site.

All construction activities shall be implemented in accordance with the approved details and timing of the plan unless otherwise approved in writing by the local planning authority.

Reason: To protect features of recognised nature conservation importance.

4. 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.**

Informative

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

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

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

Informative

Great Crested Newts are protected under the European Council Directive of 12 May 1992 on the conservation of natural habitats and of wild fauna and flora (known as the Habitats Directive 1992), the Conservation of Habitats and Species Regulations 2010 and under the Wildlife & Countryside Act 1981 (as amended).

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

Informative

Badgers, the setts and the access to the sett are expressly protected from killing, injury, taking, disturbance of the sett, obstruction of the sett etc by the Protection of Badgers Act 1992.

No works should occur within 30m of a badger sett without a Badger Disturbance Licence from Natural England in order to ensure the protection of badgers which are legally protected under the Protection of Badgers Act (1992).

All known Badger setts must be subject to an inspection by an experienced ecologist immediately prior to the commencement of works on the site.

Informative

Hazel Dormice are a European Protected Species under the Habitats Directive 1992, the Conservation of Species and Habitats Regulations 2010 and the Wildlife & Countryside Act 1981 (as amended).

If a Dormouse should be discovered on site at any point during the development then work must halt and a Dormouse Licensed Ecological Consultant or Natural England should be contacted for advice.

Informative

Japanese Knotweed is an Invasive Non-Native Species listed on Schedule 9 of the Wildlife and Countryside Act. Any soil excavated that contains parts of this plant is classed as 'controlled waste' and as such must be disposed of safely at a licensed landfill site according to the Environmental Protection Act (Duty of Care) Regulations 1991.

- 4.7 Shropshire Peregrine Group – No Objection, provided the conditions in respect of nesting peregrine falcons at this site are approved and implemented.

These refer to timing of the work only to be carried out between September and February, i.e. outside the peregrines' normal breeding period to avoid disturbing the nesting birds, and secondly that no work is carried out on the cliff area below the main road where the peregrines have nested and bred successfully since 2010, and that placement of soils and rock at the site will take place well away from the base of the cliff along its' whole length.

The Peregrine Falcon is a species of national importance which the RSPB and BRO believe that the highest level of protection is essential to the conservation of the species, which remains comparatively rare, and is extremely vulnerable to human activities. In view of the enhanced conservation status, I suggest it would be more appropriate when assessing planning applications where peregrine may be at risk, to examine the implications in more detail, as is the practice with certain at risk invertebrates, plants and mammals. Grouping schedule 1 protected bird species general, "with other wild birds" tends to diminish their importance and associated mitigation factors.

- Public Comments

The full comments received may be inspected on the Council's web site and are summarised below:

- 4.8 2 Objections:

B4371 is a very busy road and dangerous road with access onto it very difficult from Stretton Westwood.

The amount of material to be brought on to the site is very large and result in 4000 lorry loads.

How many loads per day and who will be responsible for cleaning the road?

With the large amount of HGVs coming from Edge Renewables site think there will be more vehicles using the B4371 than when all the quarries were working.

Site has not been quarried since 1960/70s and has had 50/60 to regenerate itself already; what will become of existing flora and fauna already on site.

Have studies been done of what is actually there already there

If permission given will take to 2070-2080 for site flora and fauna to become as it is now.

May be pollution of nearby watercourses as landfill could be disturbed.

Landfill licence needed?

Believe existing entrance was created without planning permission.

Can see no decision on application 14/05272/COU for use as a caravan site.

Shropshire Peregrine Group strongly object. (Officer comment – see 4.7 above for their comments).

Application should not have been lodged over the Christmas period, cutting down the period that the public can put their comments forward.

No indication of the cost of the landscaping works.

Surely tipping into the empty quarries closer to the site of the attenuation ponds would be cheaper.

No information provided on the time of year or hours of operation of lorry movements; time-scale or effect on congestion on A458 and B4371.

No detail of how the placing of material including large rocks is to be accomplished.

5.0 THE MAIN ISSUES

- o Principle of development
- o Highway Safety
- o Ecology
- o Contamination
- o Landscape Impact
- o Other Matters

6.0 OFFICER APPRAISAL

6.1 Principle of development

6.1.1 The National Planning Policy Framework (NPPF) seeks to ensure that the planning system contributes to and enhances the natural and local environment. One of the bullet points at paragraph 109 in relation to this matter is remediating and mitigating despoiled, degraded, derelict, contaminated and unstable land, where appropriate. Paragraph 117 advises planning policies should promote the preservation, restoration and re-creation of priority habitats, of which calcareous grassland is one. This is carried forward by Core Strategy policies CS6 and CS17, and the related Site Allocations and Management of Development (SAMDev) Policy MD12. There is, therefore, no in-principle planning policy objection to what this application sets out to achieve.

6.1.2 The Much Wenlock Neighbourhood Plan forms part of the Development Plan. Policy LL1 states proposals for the restoration and the implementation of aftercare proposal for former quarries will be permitted where they deliver restoration for wildlife, biodiversity and public access and are consistent with other Plan policies. Policy LL2 states that new industrial and commercial uses will not be supported at Lilleshall, Westwood and Farley quarries. Policy LL3 states that the Plan will expect developments to retain features of high nature conservation or landscape value, including mature trees, species-rich hedgerows, ponds and existing areas of woodland.

It is considered that the application proposals accord in principle with the above Neighbourhood Plan policies. The acceptability or otherwise of the proposed works therefore depends upon the consideration of the detailed matters set out below.

6.2 Highway Safety

- 6.2.1 Core Strategy policy CS6 seeks to secure safe developments. With regard to highway matters it is the importation of the material which would temporarily generate traffic flows on the local highway network.
- 6.2.2 The agent has advised that it has been provisionally agreed with the landowner at the Sytche Pond that access to this site would be off the A458 at Newtown Farm to the west of the pond site: This would avoid bringing heavy plant up Sytche Lane which is narrow and adjoined by residential properties and a caravan site. From Newtown Farm the route would be along the A458 Shrewsbury Road to the junction with the B4371 Stretton Road, then along the B4371 to the unclassified road on the west side of Westwood Quarry. The access to the Shylte Pond would be through the former overflow car park which has a direct access onto the B4371.
- 6.2.3 The access requirements to the site post the importation of materials and ground re-profiling would be only for maintenance and ecological visitors. A small area of existing hardstanding, in the northwest corner of the quarry, within the quarry floor, would be retained for the parking of vehicles. The agent has advised that new vehicular access has been constructed to the unnamed road to the west as the parcel of land purchased by the current owner did not benefit from the existing access when they acquired it. (This access was granted planning permission on 18th December 2013 – ref 13/04315/FUL). This access would be used for the importation of the material and subsequent site maintenance.
- 6.2.4 It is considered that the access and local highway network is capable of safely accommodating the traffic movements that would be generated by the importation of the material. It is acknowledged that the proposed routing for the traffic from the Sytche Pond would mean that the vehicle movements would have to pass properties on a section of the A458 and the B4371, but this would mitigate the impact upon residential amenity of much of the Town. A construction traffic management plan would be a condition on any approval issued to cover matters such as the routing of vehicles, the timing of vehicle movements each day and measures to prevent the build-up of mud on the public highway.

6.3 Ecology

- 6.3.1 A component of sustainable development set out in the NPPF at paragraphs 7 and 9 is seeking to improve biodiversity. This is expanded upon in section 11 of the NPPF. Core Strategy policies CS6 and CS17 seek to conserve and enhance the natural environment, with SAMDev policy MD12 setting out further criteria for the avoidance of harm to Shropshire's natural assets and to achieve their conservation, restoration and enhancement. Part of the site is designated as a Site of Special Scientific Interest (SSSI) primarily for geological features, but also habitat and biodiversity. The application is accompanied by an Ecological Assessment, a Design and Access Statement and an Environmental Desk study. The works to the low grade areas of the site would enhance biodiversity, but measures would need to be taken to protect any legally protected species or rare plants already on site. The Environment Agency has no objection to the proposed habitat creation. The Council's Ecology Team have studied these reports and are content that ecological interests can be safeguarded by planning conditions requiring works to be carried out in accordance with the Ecological Assessment, obtaining a European

Protected Species Licence in respect of Great Crested Newts, the submission of wildlife protection and habitat management plans. The proposals would comply with policies LL1 and LL3 of the Much Wenlock Neighbourhood Plan with regard to restoration and aftercare of this quarry, retaining and enhancing features of high nature conservation value.

- 6.3.2 The obtaining of a European Protected Species Licence requires the Planning Authority to complete a three tests matrix. With regard to the question is the development in the interests of public health or safety, or for other imperative reasons of overriding public interest, It is considered that the provision of an enhanced surface/flood water drainage scheme for Much Wenlock, of which these proposals are an essential element, is a matter of overriding public interest and public safety, meeting this requirement.
- 6.3.3 As to whether there is no satisfactory alternative, an evaluation of potential alternatives to this proposal has been carried out by the agent. This has included reusing all excavated material at the two pond sites, but this would not be practical due the topography and the restricted nature of the pond sites. Taking the material to a landfill site would not be a sustainable option and the nearest potential site would be in Telford some 17.7km away and require some 2600 lorry movements from the Shylte pond through the town and past the school. The Sytche pond would require 1400 lorry movements past the school. The use of the material to cap a closed landfill site is not considered to be an option as the nearest one still requiring capping is the Granville landfill in Telford, but this will not take place for approximately 2 years and would involve all traffic going through the town. The nearest recycling facility that could process the material is 48km away and the environmental and financial impact of this option resulted in it being discounted. The excavated material would not be suitable for quarry restoration near Morville and timescales would not coincide. Other quarries in the Much Wenlock area were considered but dismissed for reasons which include vehicles having to pass through the town (Farley Quarry and Shadwell Quarry); a site already capable of grazing use opposite the Shylte pond site not requiring improvement; no requirement for the bulk of the material by the owners of Lea Quarry North; Lea Quarry South is now a large pool since the pumping of ground water ceased; Lilleshall Quarry is a further 2km away compared to Westwood Quarry and would require further environmental impact investigations. It is considered that these investigations have been sufficient to establish that there is no satisfactory alternative to this proposal in respect of the test to be applied in safeguarding European Protected Species.
- 6.3.4 The third element of the tests that the development should not be detrimental to the maintenance of the populations of the species concerned at a favourable conservation status in their natural range, has been confirmed by the Council's Planning Ecologist and would be secured through the planning conditions recommended. It is noted that Natural England and the Shropshire Peregrine Group have no objections to the proposals.

6.4 Contamination

- 6.4.1 The NPPF at paragraph 120 advises that where a site is affected by contamination or land stability issues, responsibility for securing a safe development rests with the

developer and/or landowner. The NPPF continues at paragraph 121 that planning applications should be accompanied by adequate site investigation information, prepared by a competent person. Core Strategy policy CS6 also seeks to secure safe developments. Westwood Quarry was worked as a limestone quarry until approximately the 1960s/1970s. The north eastern part of the site was then subject to household landfill until the mid-1970s. The site has subsequently been used as concrete manufacturing works and a haulage and scrap yard. The quarry ownership has been divided over the years with the northern section being sold separately to the current owners in October 2013. The site has largely been unused since this time. The likelihood of contamination has been identified by the applicants and an Environmental Desk Study Report accompanies this application. The application and this report has been studied by the Council's Public Protection Team and the Environment Agency. Both are content that contamination issues can be dealt with adequately through conditions on any planning permission issued. A separate Environmental Permit will also be required from the Environment Agency for the importation of the material.

6.5 Landscape Impact

6.5.1 The NPPF at paragraph 109 states that the planning system should contribute to and enhance the natural and local environment by protecting and enhancing valued landscapes and geological conservation interests. Core Strategy policies CS6 and CS17 seek to protect, restore, conserve and enhance the natural environment. The SAMDev Plan references the policies contained in the Much Wenlock Neighbourhood Plan, with policy GQD1 seeking to protect the high quality natural landscape outside the development boundary of the town, with policy LL1 supportive of the appropriate restoration of former quarries. Restoration for wildlife and biodiversity here would also be consistent with policy LL2 which do not support industrial and commercial uses as part of the restoration of Westwood Quarry. The site is adjacent to part of the Shropshire Hills Area of Outstanding Natural Beauty and it is considered that the proposed works, when complete, would enhance the landscape character of the area.

6.6 Other Matters

6.6.1 It is considered that the proposals would have no significant impact upon the residential amenities of the locality (with the temporary impact of lorry movements associated with the works being mitigated by a construction traffic management plan). Application 14/05272/COU for use of part of the site as a static and touring caravan site was withdrawn on 7th September 2015.

7.0 CONCLUSION

7.1 There is no in principle planning policy objection to the proposed works, when the development is assessed against NPPF, Core Strategy, SAMDev and Much Wenlock Neighbourhood Plan policies. The access and local road network is considered capable of safely accommodating the traffic movements that would be generated by the importation of the material, subject to there being a traffic management plan agreed through a planning condition. The proposed development would enhance biodiversity and existing ecological interests can be safeguarded through the recommended planning conditions. Contamination issues can also be addressed through the recommended conditions to secure a safe development. The proposed restoration would not detract from the visual amenity and rural

character of the area, or the residential amenities of the locality.

8.0 Risk Assessment and Opportunities Appraisal

8.1 Risk Management

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

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

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

8.2 Human Rights

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

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

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

8.3 Equalities

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

9.0 Financial Implications

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

10. Background

Relevant Planning Policies

Central Government Guidance:
National Planning Policy Framework
National Planning Practice Guidance

Shropshire Core Strategy:
CS5 Countryside and Green Belt
CS6 Sustainable Design and Development Principles
CS17 Environmental Networks

Much Wenlock Neighbourhood Plan:
GQD1 Good Quality Design
GQD2 Good Quality Design
LL1 Local Landscape and Wildlife
LL2 Local Landscape and Wildlife
LL3 Local Landscape and Wildlife

RELEVANT PLANNING HISTORY:

13/04315/FUL Application under Section 73A of the Town and Country Planning Act 1990 for the creation of a vehicular access on land on the B4371 at Stretton Westwood (Retrospective)
GRANT 18th December 2013

14/05272/COU Change of use of site to use as a static and touring caravan site with associated residential supervision and infrastructure WDN 7th September 2015

11. Additional Information

View details online:

<https://pa.shropshire.gov.uk/online-applications/simpleSearchResults.do?action=firstPage&searchType=Application>

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

Design and Access Statement

Ecology Report

Environmental Report

Soil Test Interpretation
Flood Risk Assessment

Cabinet Member (Portfolio Holder)
Cllr M. Price

Local Member

Cllr David Turner

Appendices
APPENDIX 1 – Conditions
APPENDIX 2 – EPS Three Tests

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

1. The development hereby permitted shall be begun before the expiration of three years from the date of this permission.
Reason: To comply with Section 91(1) of the Town and Country Planning Act, 1990 (As amended).
2. The development shall be carried out strictly in accordance with the approved plans and drawings
Reason: For the avoidance of doubt and to ensure that the development is carried out in accordance with the approved plans and details.
3. Work shall be carried out strictly in accordance with the Ecological Assessment conducted by Eco Tech dated December 2015 in respect of Westwood Quarry, nr. Much Wenlock (v1).

Reason: To ensure the protection of Great Crested Newts, Dormice, Bats (Conservation of Habitats and Species Regulations), Badgers (badgers Act), Nesting Birds (Wildlife & Country Side Act).
4. No development, demolition or site clearance procedures that have the potential to impact upon great crested newts shall commence until a European Protected Species (EPS) Mitigation Licence with respect to great crested newts has been obtained and submitted to the local planning authority for the proposed work prior to the commencement of works on the site. Work shall be carried out strictly in accordance with the granted EPS Mitigation Licence.

Reason: To ensure the protection of Great Crested Newts, a European Protected Species
5. No development or clearance of vegetation shall take place until a Wildlife Protection plan has been submitted to and approved in writing by the local planning authority. The plan shall include:
 - a. An appropriately scaled plan showing 'Wildlife/habitat Protection Zones' where construction activities are restricted and where protective measures will be installed or implemented;
 - b. Details of protective measures (both physical measures and sensitive working practices) to avoid impacts during construction;
 - c. Persons responsible for:
 - i) Compliance with legal consents relating to nature conservation;
 - ii) Compliance with planning conditions relating to nature conservation;
 - iii) Installation of physical protection measures during construction;
 - iv) Implementation of sensitive working practices during construction;
 - v) Regular inspection and maintenance of physical protection measures and monitoring of working practices during construction;
 - vi) Provision of training and information about the importance of 'Wildlife protection zones' to all construction personnel on site.

All construction activities shall be implemented in accordance with the approved details and timing of the plan unless otherwise approved in writing by the local planning authority.

Reason: This information is required prior to the commencement of development to protect features of recognised nature conservation importance

6. A habitat management plan shall be submitted to and approved by the local planning authority prior to the completion 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.

7. a) No development, with the exception of demolition works where this is for the reason of making areas of the site available for site investigation, shall take place until a Site Investigation Report has been undertaken to assess the nature and extent of any contamination on the site. The Site Investigation Report shall be undertaken by a competent person and conducted in accordance with 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. Information on how to comply with conditions and what is expected of developers can be found in the Shropshire Councils Contaminated Land Strategy 2013 in Appendix 5.

8. Prior to the commencement of the development, including any works of demolition, a Construction Method Statement shall have 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- wheel washing facilities
 - iv- measures to control the emission of dust and dirt during site works
 - v- routing of construction traffic over the local road network between the sources of the fill material and the application site, together with the hours of operation of these vehicle movements.

Reason: This detail is required prior to commencement to avoid congestion in the surrounding area and to protect the amenities of the area.

Informatives

1. 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 by the National Planning Policy Framework, paragraph 187.
2. The active nests of all wild birds are protected under the Wildlife & Countryside Act 1981 (As amended). An active nest is one being built, containing eggs or chicks, or on which fledged chicks are still dependent.

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

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

3. Great Crested Newts are protected under the European Council Directive of 12 May 1992 on the conservation of natural habitats and of wild fauna and flora (known as the

Habitats Directive 1992), the Conservation of Habitats and Species Regulations 2010 and under the Wildlife & Countryside Act 1981 (as amended).

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

4. Badgers, the setts and the access to the sett are expressly protected from killing, injury, taking, disturbance of the sett, obstruction of the sett etc by the Protection of Badgers Act 1992.

No works should occur within 30m of a badger sett without a Badger Disturbance Licence from Natural England in order to ensure the protection of badgers which are legally protected under the Protection of Badgers Act (1992).

All known Badger setts must be subject to an inspection by an experienced ecologist immediately prior to the commencement of works on the site.

5. Hazel Dormice are a European Protected Species under the Habitats Directive 1992, the Conservation of Species and Habitats Regulations 2010 and the Wildlife & Countryside Act 1981 (as amended).

If a Dormouse should be discovered on site at any point during the development then work must halt and a Dormouse Licensed Ecological Consultant or Natural England should be contacted for advice.

6. Japanese Knotweed is an Invasive Non-Native Species listed on Schedule 9 of the Wildlife and Countryside Act. Any soil excavated that contains parts of this plant is classed as 'controlled waste' and as such must be disposed of safely at a licensed landfill site according to the Environmental Protection Act (Duty of Care) Regulations 1991.

EUROPEAN PROTECTED SPECIES – Consideration of the three tests**APPENDIX 2**

Application name and reference number:

15/05359/FUL

Westwood Quarry

Stretton Westwood

Much Wenlock

Shropshire

TF13 6DD

Restoration of disused quarry to restore habitat, in particular to encourage the re-growth of calcareous grassland (UK Biodiversity Action Plan priority habitat), utilising surplus material from proposed attenuation ponds that will form the Much Wenlock Flood Alleviation Scheme.

Date of consideration of three tests:

8th February 2016

Consideration of three tests carried out by:

Nicola Stone

Planning Ecologist

01743-258512

1 Is the development 'in the interests of public health and public safety, or for other imperative reasons of overriding public interest, including those of a social or economic nature and beneficial consequences of primary importance for the environment'?

It is considered that the provision of an enhanced surface/flood water drainage scheme for Much Wenlock, of which these proposals are an essential element, is a matter of overriding public interest and public safety, meeting this requirement.

2 Is there 'no satisfactory alternative'?

It is considered that there is no satisfactory alternative. A number of potential alternatives have been evaluated. This has included reusing all excavated material at the two pond sites, but this would not be practical due to the topography and the restricted nature of the pond sites. Taking the material to a landfill site would not be a sustainable option and the nearest potential site would be in Telford some 17.7km away and require some 2600 lorry movements from the Shylte pond through the town and past the school. The Sytche pond would require 1400 lorry movements past the school. The use of the material to cap a closed landfill site is not considered to be an option as the nearest one still requiring capping is the Granville landfill in Telford, but this will not take place for approximately 2 years and would involve all traffic going through the town. The nearest recycling facility that could process the material is 48km away and the environmental and financial impact of this option resulted in it being discounted. The excavated material would not be suitable for quarry restoration near Morville and timescales would not coincide. Other quarries in the Much Wenlock area were considered but dismissed for reasons which include vehicles having to pass through the town (Farley Quarry and Shadwell Quarry); a site already capable of grazing use opposite the Shylte pond site not requiring improvement; no requirement for the bulk of the material by the owners of Lea Quarry North; Lea Quarry South is now a large pool since the pumping of ground water ceased; Lilleshall Quarry is a further 2km away compared to Westwood Quarry and would require further environmental impact investigations. It is considered that these investigations have been sufficient to establish that there is no satisfactory alternative to this proposal in respect of the test to be applied in safeguarding European Protected Species.

3 Is the proposed activity 'not detrimental to the maintenance of the populations of the species concerned at a favourable conservation status in their natural range'?

A medium population of Great Crested Newts has been recorded within 250m of the proposed development site. Since the area is known to be used as a place of rest/shelter, the proposed works would need to be undertaken under a European Protected Species (EPS) mitigation licence from Natural England (Eco Tech Ecological Report 2015).

Exclusion and capture from the application site will be undertaken using corrugated refuge mats will be used instead of the usual pitfall traps. Any newts caught will be released at the proposed receptor site which is wooded. The capture effort suggested is up to 60 nights in appropriate weather conditions (given the medium population size class recorded). The site clearance by trapping would be followed by a destructive hand search comprising a search of all natural and artificial refuges which are present on site.

Two refuges (to Natural England specifications) will be created. The replacement of ephemeral/short perennial vegetation and bare ground (low quality terrestrial habitat) with the equivalent area of uneven calcareous grassland and the creation of 2 refuges should result in a significant increase in

the extent of high quality terrestrial habitat over that to be lost. The creation of two potential breeding ponds would allow what seems currently to be a stranded terrestrial population to breed.

The proposal is considered highly likely to fully mitigate for the predicted temporary adverse impact and ensure favourable conservation status of great crested newt in the locality in the longer term.

The proposed activity will not be detrimental to the maintenance of Great Crested Newts at a favourable conservation status in their natural range provided that the conditions listed in the memorandum from Nicola Stone to Richard Fortune dated 8th February 2016 are on the decision notice and appropriately enforced:

The following conditions should be on the decision notice;

1. Work shall be carried out strictly in accordance with the Ecological Assessment conducted by Eco Tech dated December 2015 attached as an appendix to this planning permission.

Reason: To ensure the protection of Great Crested Newts, Dormice, Bats (Conservation of Habitats and Species Regulations), Badgers (badgers Act), Nesting Birds (Wildlife & Country Side Act).

2. No development, demolition or site clearance procedures that have the potential to impact upon great crested newts shall commence until a European Protected Species (EPS) Mitigation Licence with respect to great crested newts has been obtained and submitted to the local planning authority for the proposed work prior to the commencement of works on the site. Work shall be carried out strictly in accordance with the granted EPS Mitigation Licence.

Reason: To ensure the protection of Great Crested Newts, a European Protected Species

Guidance for filling in the EPS form

The three tests detailed below must be satisfied in all cases where a European Protected Species may be affected and where derogation under Article 16 of the EC Habitats Directive 1992 would be required – i.e. an EPS licence to allow an activity which would otherwise be unlawful.

In cases where potential impacts upon a European Protected Species can be dealt with by appropriate precautionary methods of working which would make derogation unnecessary; since no offence is likely to be committed, it is not appropriate to consider the three tests.

Test 1 'overriding public interest' and test 2 'no satisfactory alternative' should be addressed by Shropshire Council planning team. Test 3 'favourable conservation status' should be addressed by Shropshire Council Ecologists with guidance from Natural England.

- 1 **Is the purpose of the development/damaging activity for 'Preserving public health or public safety or other imperative reasons of overriding public interest including those of a**

social or economic nature and beneficial consequences of primary importance for the environment?

NB in order to meet this test, the purpose of preserving public health or public safety must also be shown to constitute a reason of overriding public interest. You would need to demonstrate that action is required to alleviate a clear and imminent danger to members of the general public.

If an unstable structure (e.g. buildings, trees) is involved, either through neglect or outside influences (e.g. severe weather or seismic events), supporting evidence from an appropriately qualified person such as a structural engineer, arboriculturalist or tree surgeon should be sought.

If vandalism or trespass is used as an argument, evidence of reasonable measures to exclude the general public from the site must be presented. Evidence may be provided by the local police or fire services in relation to the number of incidents dealt with.

Only public interests can be balanced against the conservation aims of the EC Habitats Directive (1992), projects that are entirely in the interest of companies or individuals would generally not be considered covered.

2 Is there no satisfactory alternative?

An assessment of alternatives needs to be provided. If there are any viable alternatives which would not have an impact on a European Protected species, they must be used in preference to the one that does. Derogations under the EC Habitats Directive (1992) are the last resort.

Where another alternative exists, any arguments that it is not satisfactory will need to be convincing. An alternative cannot be deemed unsatisfactory because it would cause greater inconvenience or compel a change in behaviour.

This test should identify a) the problem or specific situation that needs to be addressed, b) are there any other solutions, and c) will the alternative solutions resolve the problem or specific question in (a)?

3 Is the proposed activity 'not detrimental to the maintenance of the populations of the species concerned at a favourable conservation status in their natural range'?

Assessment of the impact of a specific development will normally have to be at a local level (e.g. site or population) in order to be meaningful in the specific context.

Two things have to be distinguished in this test: a) the actual conservation status of the species at both a biogeographic and a (local) population level; b) what the impact of the proposal would be.

In such cases where the conservation status is different at the different levels assessed, the situation at the local population level should be considered first, although ultimately both should be addressed.

No derogation under the EC Habitats Directive (1992) can be granted if it has a detrimental effect on the conservation status or the attainment of favourable conservation status for a species at all levels. The net result of a derogation should be neutral or positive for a species.

In the case of destruction of a breeding site or resting place it is easier to justify derogation if sufficient compensatory measures offset the impact and if the impact and the effectiveness of compensation measures are closely monitored to ensure that any risk for a species is detected. Compensation measures do not replace or marginalise any of the three tests, all three tests must still be satisfied.

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<u>Committee and date</u>
South Planning Committee
1 March 2016

Development Management Report

SCHEDULE OF APPEALS AND APPEAL DECISIONS AS AT COMMITTEE 01.03.2016

LPA reference	15/00459/FUL
Appeal against	Refusal
Committee or Del. Decision	Delegated
Appellant	Mr Andrew Badlan
Proposal	Erection of one dwelling
Location	Land Adjacent To Castle Meadow Linney, Ludlow, Shropshire, SY8 1EE
Date of appeal	28.01.16
Appeal method	Written Representations
Date site visit	
Date of appeal decision	
Costs awarded	
Appeal decision	

LPA reference	15/00164/FUL
Appeal against	Non-Determination
Committee or Del. Decision	Delegated
Appellant	Ms Julie Moorhouse
Proposal	Erection of one detached dwelling for agricultural needs with vehicular access; provision of septic tank drainage system
Location	Land At Hall Close Farm (Goose Green) Alveley Shropshire WV15 6NG
Date of appeal	4.9.15
Appeal method	Hearing
Date site visit	24.11.15
Date of appeal decision	29.1.16
Costs awarded	
Appeal decision	Dismissed

LPA reference	14/01871/FUL
Appeal against	Refusal
Committee or Del. Decision	Delegated
Appellant	Mr S Angell
Proposal	Erection of a single detached dwelling; including detached garage/office. Alteration to existing vehicular access.
Location	Land Adjacent Wayside 4 Ashford Carbonell Ludlow, Shropshire
Date of appeal	04.09.2015
Appeal method	Written Representations
Date site visit	24.11.2015
Date of appeal decision	02.02.16
Costs awarded	
Appeal decision	Dismissed

LPA reference	15/01238/FUL
Appeal against	Refusal
Committee or Del. Decision	Committee
Appellant	EBS Energy LLP And GD Bach Limited
Proposal	Erection of ground mounted solar farm along with associated infrastructure, landscaping and ancillary structures on agricultural land
Location	Whitton Solar Farm Caynham Shropshire
Date of appeal	02.02.2016
Appeal method	Written Representations
Date site visit	
Date of appeal decision	
Costs awarded	
Appeal decision	

LPA reference	15/03707/FUL
Appeal against	Refusal
Committee or Del. Decision	Delegated
Appellant	Mr Ian Beardsall
Proposal	Erection of detached dwelling and alterations to existing vehicular access
Location	39 Park Lane Shifnal Shropshire TF11 9HD
Date of appeal	03.02.16
Appeal method	Written Representations
Date site visit	
Date of appeal decision	
Costs awarded	
Appeal decision	

LPA reference	14/03773/OUT
Appeal against	Refusal
Committee or Del. Decision	Delegated
Appellant	14/03773/OUT
Proposal	Outline planning application for residential development of ten to twenty dwellings (all matters reserved)
Location	Land East Of Oldbury Road Bridgnorth
Date of appeal	03.02.16
Appeal method	Written Representations
Date site visit	
Date of appeal decision	
Costs awarded	
Appeal decision	

LPA reference	15/00359/FUL
Appeal against	Refusal
Committee or Del. Decision	Delegated
Appellant	Mr & Mrs A Anthony
Proposal	Erection of detached dwelling to include first floor balconies at front and rear elevations; formation of parking/turning areas and new vehicular access; insertion of septic tank drainage system
Location	Proposed Dwelling North Of Belair Berrymill Craven Arms Shropshire
Date of appeal	04.02.16
Appeal method	Written Representations
Date site visit	
Date of appeal decision	
Costs awarded	
Appeal decision	

LPA reference	14/05163/OUT
Appeal against	Refusal
Committee or Del. Decision	Delegated
Appellant	Stephen Howie
Proposal	Outline application for residential development (all matters reserved)
Location	Proposed Residential Development To The West Side Of Halfway House Lane Eardington
Date of appeal	05.02.2016
Appeal method	Hearing
Date site visit	
Date of appeal decision	
Costs awarded	
Appeal decision	

LPA reference	15/02642/FUL
Appeal against	Refusal
Committee or Del. Decision	Delegated
Appellant	Mr & Mrs Scott & Sue Mitchell
Proposal	Proposed remodelling of the existing ground floor and first floor extension
Location	Batch End , 2 Yeld Bank Church Stretton, Shropshire SY6 6EZ
Date of appeal	05.11.2015
Appeal method	Fast Track Appeal
Date site visit	
Date of appeal decision	13.02.2016
Costs awarded	
Appeal decision	Dismissed

LPA reference	15/00297/FUL
Appeal against	Refusal
Committee or Del. Decision	Delegated
Appellant	Mr & Mrs Alan & Jo Verth
Proposal	Erection of a single detached dwelling and double garage; installation of package treatment plant and the formation of a vehicular access
Location	Finger Post Cottage Hopton Wafers, Kidderminster Shropshire, DY14 0NA
Date of appeal	24.11.15
Appeal method	Written Representations
Date site visit	
Date of appeal decision	15.02.16
Costs awarded	
Appeal decision	Dismissed

LPA reference	14/01125/OUT
Appeal against	Refusal
Committee or Del. Decision	Committee
Appellant	Linda Garbett
Proposal	Outline application to include access and layout (scale, appearance & landscaping reserved) for the residential development of six detached houses; formation of vehicular access and estate roads (amended description)
Location	Land Off Park View Broseley Shropshire
Date of appeal	29.4.15
Appeal method	Written Reps
Date site visit	30.6.15
Date of appeal decision	18.2.16
Costs awarded	Yes
Appeal decision	Allowed

Appeal Decision

Hearing held on 24 November 2015

Site visit made on 24 November 2015

by Y Wright BSc (Hons) DipTP MSc DMS MRTPI

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 29 January 2016

Appeal Ref: APP/L3245/W/15/3130903

Goose Green, Chapel Lane, Alveley, Bridgnorth, Shropshire WV15 6NG

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a failure to give notice within the prescribed period of a decision on an application for planning permission.
 - The appeal is made by Ms Julie Moorhouse against Shropshire Council.
 - The application Ref 15/00164/FUL, is dated 13 January 2015.
 - The development proposed is described as 'erection of one new two storey 3 bedroom with basement under essential needs agricultural dwelling'.
-

Decision

1. The appeal is dismissed and planning permission for erection of one new two storey 3 bedroom with basement under essential needs agricultural dwelling at Goose Green, Chapel Lane, Alveley, Bridgnorth, Shropshire WV15 6NG is refused.

Procedural Matters

2. The Council states that had it been in a position to determine the application, it would have refused planning permission on the grounds that the proposal would be inappropriate development in the Green Belt and the harm caused would not be clearly outweighed by other considerations so as to amount to the very special circumstances required to justify the development.
3. The appellant has raised concerns about the handling of the planning application by the Council, but this would need to be raised with the Council in the first instance. I confirm in this respect that I have had regard only to the planning merits of the proposal.
4. Since conducting the Hearing the Shropshire Allocations and Management of Development Plan has been adopted (17 December 2015) (DP). I therefore consider this appeal on this basis.

Main Issues

5. The appeal site is located within the Green Belt. The main issues in determining this appeal are therefore:
 - Whether the proposal is inappropriate development for the purposes of the National Planning Policy Framework and development plan policy;
 - The effect of the proposal on the openness of the Green Belt;

- The effect of the proposal on character and appearance of the surrounding countryside; and
- If the proposal is inappropriate development whether the harm by reason of inappropriateness, and any other harm, is clearly outweighed by other considerations so as to amount to the very special circumstances necessary to justify the development.

Reasons

6. Goose Green is a small agricultural holding of one field of around 3.67 acres comprising of a poultry and bee keeping business. The site is located close to the village of Alveley within reasonable walking and cycling distance. The appeal site forms the north-eastern corner of the field which currently contains a small brick built stable block and a touring caravan. There are small poultry houses, pens and bee hives within the field but is mainly open grassland. The site is immediately adjacent to Chapel Lane, a narrow country lane which provides access to the adjacent country park and is surrounded by open countryside.

Whether inappropriate development

7. Paragraph 89 of the National Planning Policy Framework (the Framework) indicates that, except for a small number of exceptions, the construction of new buildings within the Green Belt should be regarded as inappropriate. Exceptions to this include buildings for agriculture or where an extension or alteration to a building does not result in disproportionate additions over and above the size of the original building.
8. Paragraph 90 also sets out other forms of development that are not inappropriate in the Green Belt, which includes the re-use of buildings, provided the development preserves the openness and does not conflict with the purposes of including land within the Green Belt.
9. The proposed dwelling would provide residential accommodation for the appellant. Whilst this would support the purposes of agriculture, the house would not be a building for agriculture. Furthermore, whilst the proposal would re-use an existing stable building it would also include the construction of another building which would be linked to the stables by a predominantly glazed walkway. This would be substantially larger than the existing stables and would therefore be a disproportionate addition to the existing building.
10. Consequently, the proposal would be inappropriate development in the Green Belt. The Framework states that this is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances. I regard this harm as substantial. The development would also not comply with the Shropshire Local Development Framework Adopted Core Strategy 2011 (CS) Policy CS5 which accords with the Framework in seeking to protect the Green Belt from inappropriate development.

Openness of the Green Belt

11. Openness is an essential characteristic of the Green Belt as set out in paragraph 79 of the Framework. It is clear from the evidence before me that the bulk of the original building would be substantially and disproportionately increased by a large extension which would inevitably reduce openness. I

therefore find that overall the development would reduce the openness of the Green Belt, resulting in material harm. As openness is one of the key attributes of the Green Belt, I find this harm is significant and, taken together with the harm arising from inappropriate development, carries substantial weight in accordance with paragraph 88 of the Framework.

Character and appearance

12. On visiting the site I saw that it is situated on a steeply sloping field from which there are wide ranging and far reaching views from the site, particularly to the west over the valley. The field is mainly open permanent pasture with a small area of orchard. Whilst hedgerows surround the field and would screen the development to some extent from the adjacent road, it would be prominent from other vantage points including views from across the valley. Although the development would convert the existing small stable structure, it would introduce development of a substantially dominant scale and bulk into what is currently a visually open part of the countryside, with prominent views across the valley.
13. Whilst the house would be designed so that the smallest elevations of the main building would face east and west and there would be mainly glazing between the two buildings to form the entrance hall, I do not consider that this would significantly reduce the overall mass and visual dominance of the overall structure within the site. The development would therefore appear as an intrusive and isolated form of residential development within the countryside, which would be of a dominating scale and mass that would not be in keeping with the open character and appearance of the surrounding area. This impact would be increased when patios, pathways, the basement entrance area, parked vehicles and other resultant domestic paraphernalia associated with a residential use are also taken into account.
14. The appellant has drawn my attention to other development visually prominent from the site, including a caravan park. However the existence of these other forms of development does not mean that a proposal that would be harmful should be allowed.
15. I therefore conclude that the proposal would result in material harm to the character and appearance of the surrounding countryside which would be contrary to CS Policy CS5 which also includes seeking to protect the countryside. This harm carries substantial weight.

Other considerations

16. The Framework advises that local planning authorities should avoid new isolated homes in the countryside unless there are special circumstances, such as the essential need for a rural worker to live permanently at or near their place of work. This is also set out in DP Policy MD7a which specifically sets out criteria where development of a dwelling to support a rural based enterprise would be permitted.
17. It was agreed between the two parties that an assessment of functional need and financial viability of the enterprise was an appropriate way to assess whether there was an essential need for the development.
18. It has been put to me by the appellant that there is a functional need for the dwelling for reasons of animal husbandry, security and practicality.

19. Whilst I recognise that livestock requires adequate care and supervision, the poultry and fowl egg production side of the business is small-scale and the low numbers of birds on the site results in a very small annual labour requirement. The appellant specifically refers to the need to deal swiftly with any health conditions in the birds and told me at the Hearing that the poultry had recently contracted a bacterial disease (Document 3), requiring extra care of the birds. However this does not in itself justify a functional need. The appellant's plans to expand this side of the business are noted, but this too does not provide necessary justification for the dwelling.
20. Furthermore whilst the appellant in her statement implies that she needs to live on the site in order to meet legislative requirements for the care of birds, it was confirmed to me at the Hearing that this was in fact not the case.
21. In relation to the bee side of the business this currently includes the production of honey for sale and small bee starter packs. It includes around 240 bee hives located predominantly off the site. A workshop and honey extraction unit are located away from the smallholding at two other separate locations, though I was told at the Hearing that the latter unit was now not available due to the retirement of the owner.
22. There was some discussion at the Hearing around the amount of labour that is required for bee keeping. However based on the appellant's submission it would appear that the existing bee business has a labour requirement of one full time and one part time worker. Notwithstanding this, the majority of the hives are located at other locations off site. Hives would continue to be located away from the site even if a dwelling was allowed. The appellant states that the hives and honey need to be brought back to an isolated location for reasons of safety and security and would need to be supervised overnight. However, whilst this may be the case, this does not demonstrate to me why this would constitute a functional need for the appellant to live on the site.
23. Whilst I acknowledge that future plans for the business would include the more difficult and labour intensive rearing of queens, I was informed at the Hearing that this would mainly occur between late March and August depending on weather conditions. Even acknowledging that other bee related work would occur during the winter months, based on the evidence that is before me I do not consider that a permanent presence on the site would be required for this purpose.
24. Although security against predation, theft, injury or disease is not normally a justification for a permanent dwelling, it can contribute to an overall functional need. There was some discussion at the Hearing about other security measures that could potentially be used at the site including additional fencing (including electric), automated feeding, watering or door opening systems for the birds and surveillance and monitoring systems. The appellant considers that such measures would be costly, particularly as there is no electricity within the site. However I have no costs or evidence that these or any other security measures have been considered by the appellant. Whilst I recognise that it would be likely that some measures would not be financially viable for such a small-scale business, less expensive security measures could potentially be beneficial.
25. I acknowledge that being within 'sight and sound' of the birds would mean that issues such as fox attacks could be dealt with swiftly. I also recognise that two

thefts occurred from the site in 2011 and 2013. However based on the evidence submitted and the small scale of the business I consider the frequency and risk of incidents occurring would be extremely low, particularly if adequate security measures were in place.

26. I recognise that the appellant and her partner travel some distance to the site from their home on a daily basis to look after the livestock and that they also use other sites to extract and process the honey. However whilst the desire to consolidate operations on one site is understandable as this would be more convenient and practical for the appellant, reducing journey times and related travel costs, there would be no functional need for this to occur. The Council states that supervision of the site could be achieved from a dwelling within a short travelling distance and at the Hearing provided evidence of houses available for sale within the locality (Document 2). The appellant states that these dwellings would cost too much and would not be suitable for the purposes required.
27. Although no written costing was provided, the appellant told me at the Hearing that a new dwelling would cost around £186,000 to build on the site. However I have no substantial evidence to demonstrate why properties of a similar value available locally would not be suitable.
28. Taking all the above into account, I therefore consider that it has not been clearly demonstrated that there is a functional need for a worker to live permanently on the site.
29. Financially the appellant has provided profit and loss accounts for three years between 2010 and 2013. Whilst profits are shown for each of those years they are small and do not include wages. Only during 2012/13 was there a profit just above the minimum agricultural workers wage of £15,000 per annum. No further accounts for more recent years have been provided. A business plan with three year cashflow forecasts has been submitted to me, which shows a significant increase of 25% growth in income each year. However no detailed assessment of how this would be achieved has been provided.
30. I recognise that a certain degree of investment in the business has occurred over a number of years through personal contributions. I also note that the construction of the dwelling would be funded through existing personal funds and would not be funded by the business. However DP Policy MD7a clearly states that the cost of the dwelling should be funded through the business. Based on the actual profits achieved between 2010 and 2013 there is insufficient profit to pay for wages and the cost of financing a dwelling. Therefore based on the evidence provided I do not consider that the enterprise is financially sound or viable in the long term. I am also not satisfied that the forecast growth would be achievable, as I have no substantive evidence to support this.
31. Consequently taking all the above into account I conclude that an essential need for a dwelling to accommodate a rural worker has not been demonstrated and the development is not justified. The proposal would therefore be contrary to the Framework in this regard and would also conflict with CS Policy CS5 and DP Policy MD7a. This carries significant weight. Accordingly based on this conclusion, I do not consider that it is necessary for me to consider the Council's requirement for a Section 106 agreement to secure the payment of a

contribution towards affordable housing, in accordance with DP Policy MD7a and the SPD.

32. In relation to concerns that the development would increase traffic on a narrow country lane that is used to access the adjacent country park, I note that the Council and Highway Authority do not object on these grounds. I also note that the appellant considers that use of the lane would mainly be during evenings and at night when the transportation of bees and honey would occur. Whilst I acknowledge that increased traffic would be likely I have no substantive evidence to indicate that this would cause significant harm to highway safety. In relation to wildlife I also have no significant evidence that the proposal would cause an adverse effect. However these are 'absence of harm' factors rather than positive attributes of the appeal scheme and therefore carry limited weight.
33. I recognise the appellant's to develop the business and to live and work from one site. However although she argues that the reduced need to travel and move livestock would improve the sustainability of the enterprise, I have little objective evidence to show the extent of any improvements in that regard. I recognise that the house would be off-grid, would be energy efficient and be built of predominantly sustainable materials. However these factors carry only minimal weight within my decision.
34. The field is part owned by Miss L Moorhouse, the appellant's sister, who objects to the proposal. I see no reason why the proposal would negate any private legal rights regarding land ownership and as such this has had no bearing on my assessment of the planning issues in this appeal.
35. Finally I have considered all representations made, including the letters of support for the proposal.

Conclusion and Planning Balance

36. I have found that the development would be inappropriate and would reduce the openness of the Green Belt which carries substantial weight in accordance with paragraph 88 of the Framework. Moreover there would be material harm to the character and appearance of the surrounding countryside which also carries substantial weight.
37. I have also concluded that functionally and financially the proposal does not demonstrate an essential need for the appellant to live permanently at the site. This carries significant weight. Other factors as set out above carry only limited weight. I therefore conclude that the harm by reason of inappropriateness and the effect on openness and character and appearance, would not be clearly outweighed by any other considerations and therefore very special circumstances do not exist to justify inappropriate development in the Green Belt. The appeal proposal would therefore be contrary to the Framework and the Council's development plan.
38. For the reasons given above, and having considered all other matters raised, I conclude that the appeal should be dismissed.

Y. Wright

INSPECTOR

APPEARANCES

FOR THE APPELLANT:

Ms J Moorhouse	Appellant
Mr K Gorman	Planning agent
Mr P Cooper	Agricultural consultant (Farm Consultancy Group)
Mr G Baker	Bee keeper
Mr T Heywood	Appellant's partner

FOR THE LOCAL PLANNING AUTHORITY:

Mr T Cannaby	Planning Officer, Shropshire Council
Mr Williams	Agricultural consultant

INTERESTED PARTIES:

Mr M Philpotts	Alveley Green Belt Preservation Group
Councillor T Woodwood	Shropshire Council
Mr G Hurry	Clerk of the Alveley and Romsey Parish Council
Miss L Moorhouse	Part owner of the appeal site

DOCUMENTS SUBMITTED AT THE HEARING:

- 1 Copy of Policy MD7a of the Shropshire Allocations and Management of Development Plan
- 2 List of available properties for sale in Alveley
- 3 Information on Mycoplasma Gallisepticum

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Appeal Decision

Site visit made on 24 November 2015

by Louise Nurser BA (Hons) Dip Up MRTPI

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 2 February 2016

Appeal Ref: APP/L3245/W/15/3024055

Wayside Cottage, Ashford Carbonel, Ludlow SY8 4BX

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
 - The appeal is made by Mr Simon Angell against the decision of Shropshire Council.
 - The application Ref 14/01871/FUL, dated 23 April 2014, was refused by notice dated 27 March 2015.
 - The development proposed is erection of a dwelling and garage/office, alteration to an existing vehicular access.
-

Decision

1. The appeal is dismissed.

Procedural Matter

2. Since the appeal was submitted the Shropshire Site Allocations and Management of Development Plan (SAMdev) has been adopted in December 2015. Consequently, where the saved Policy SDS3 of the South Shropshire Local Plan 2004- 2011 referred to within the Council's refusal notice has now been superseded, I refer to the relevant recently adopted policies.
3. I sought the views of both parties on the implications of the adoption of the SAMDev which I have taken into account in coming to my decision.
4. An application for a single affordable dwelling has previously been approved¹ at the site and building work has already commenced. The appellant wishes to build an open market house of a broadly similar but different design in the same location. I have determined the appeal on the basis of the proposed development for open market housing.

Main Issue

5. The Council has raised no objection to the design of the proposed development with which I concur. The main issue is therefore, whether the location is a sustainable location for open market housing.

Reasons

6. Following the examination into the recently adopted SAMDev the Inspector concluded that the Council was able to demonstrate a five year supply of

¹ 11/05428/FUL

deliverable housing and on the basis of the evidence which has been provided to me, including issues of viability, I have no reason to come to a different conclusion. Consequently, in accordance with Paragraph 49 of the Framework the relevant policies for the supply of housing are considered to be up-to-date.

7. Paragraph 47 of the Framework sets out the need to significantly boost the housing supply and paragraph 49 refers to the requirement for housing applications to be considered in the context of the presumption in favour of sustainable development, which paragraph 14 describes for decision-taking, as approving development proposals that accord with the development plan without delay unless material considerations indicate otherwise.
8. Paragraph 55 of the Framework sets out that to promote sustainable development in rural areas, housing should be located where it will enhance or maintain the vitality of rural settlements. Paragraph 10 of the Framework requires local circumstances to be taken into account as a means to respond to different opportunities for achieving sustainable development. Policies CS1 and CS4 of the Shropshire Local Development Framework: Adopted Core Strategy – March 2011 (CS) sets out the locational strategy for Shropshire which reflects its rural nature. It directs development within the rural areas predominantly to settlements which are defined as a Community Cluster or Community Hub as a means of realising the 'rural rebalance'².
9. The appeal site lies in a large garden in the core of the village of Ashford Carbonel. The village possesses a recently built substantial school which I understand serves a wider area; a church and a Village Hall, which doubles as a community pub; and a bus service, although, I have no evidence of where and how often the bus service runs. Moreover, the village has not been identified as a Community Cluster or Hub within the recently adopted Policy MD1 of the SAMDev which provides for the scale and distribution of development within the Settlement Policy Framework. Consequently, the proposed development for new build open market housing falls to be considered in the context of Policies CS5 and CS11 of the CS, and Policy MD7a of the SAMdev, which set out a number of detailed criteria to control new housing on sites outside of the defined Community Hubs and Clusters by restricting residential development to: affordable housing on exception sites; rural conversions; and housing for essential rural workers.
10. Policy MD3 provides for the delivery of sustainable housing to provide for an appropriate mix of housing types outside of allocated sites by reference to the locational policies of both the adopted CS and the adopted SAMdev. Windfalls are considered to be vital to the delivery of the housing supply³ in Shropshire.
11. However, I note that new build market housing only makes up one aspect of the rural housing supply which also includes housing for rural workers, conversions and affordable housing exception sites.
12. I have been referred to the sustainability of the proposed development. Sustainability has three dimensions: economic, social and environmental. The construction of the property would result in a limited economic benefit to the local economy through direct and indirect employment, monies through CIL

² Paragraph 28 of the Shropshire Council Site Allocations and Management of Development Local Plan, Inspector's Report October 2015

³ Paragraph 44

and the New Homes Bonus. The open market housing would provide potential patronage of the village hall and school, and a financial contribution towards affordable housing. The site lies within the village and would therefore not encroach on the open countryside. However, any future occupant would require access to a private car in order to meet their day to day needs which would be met outside the village. As such I conclude that the cumulative benefits of the proposed development would be unlikely to significantly enhance the vitality and viability of the rural community as set out in Paragraph 55.

13. In addition, the proposed open market housing does not fall within any of the exception categories for development within the open countryside. Therefore, I conclude, that whilst the proposed development would not encroach into the open countryside, as it would not provide affordable housing as an exception site, is not a conversion and would not provide for an essential need for a rural worker it would compromise the principles of sustainable development as it would result in new-build open market housing contrary to Policies CS1, CS4, CS5 and CS11 of the CS and Policies MD1, MD3, and MD7a of the recently adopted SAMdev.

Other matters

14. The appellant wishes to live in the property with his daughter and move from the neighbouring Wayside Cottage which I understand is considered too small for their needs. The appeal site was considered to be suitable for affordable housing under the Council's affordable housing policy as an exception site under the 'Build Your Own' category of the Shropshire Local Development Framework: Type and Affordability of Housing Supplementary Planning Document (SPD) adopted 2012. It has been suggested that the previous approved proposal could not be pursued due to a lack of a suitable funding mechanism.
15. However, there is not sufficient evidence before me to conclude if this were the case. Irrespective, of whether it was, I have determined the appeal on the basis of the merits of the proposal before me for unrestricted open market housing.
16. I appreciate that at one time the officers intimated that the proposed development would be acceptable. In addition, I have been referred to a planning permission which had been granted elsewhere within the village for open market housing. However, I understand that the circumstances in which the application was approved were different, as at the time the policies of the SAMdev had not been adopted and were therefore accorded limited weight. In addition, I have been provided with a copy of the related Officer's report in which it was stated that the village of Ashford Carbonel was considered to be sustainable. However, I note that the lack of shops and limited services weighed against the proposal. Moreover, I do not have the full details of the permitted development before me and, in any case, have determined the appeal before me on its own merits in the context of an altered policy situation.
17. In addition, my attention has also been drawn to a recent appeal decision at Wem⁴. However, I note that the circumstances were different, including that the decision had been made before the adoption of the SAMdev, and, albeit the

⁴ APP/L3245/W/15/3029727

land was located in open countryside it was close to Wem, a market town which is proposed to provide for additional market housing. This contrasts with the village of Ashford Carbonel which does not even fall within the category of Community Cluster or Hub. Moreover, I am not sufficiently familiar with the details of the appeal proposal and site to consider the relevance of it to this appeal, on which I have, in any case, reached my own conclusions on the basis of the evidence before me.

18. I note that the site is within the Ashford Carbonel Conservation Area (CA). However, the proposal would be in keeping with its surroundings and as such would preserve the character and appearance of the CA as a whole, as well as the setting of the nearby Home Farm, a Grade II listed building, to whose preservation I have had special regard.

Obligation

19. Following the High Court Judgement (HCJ) in the case of West Berkshire District Council and Reading Borough Council v Secretary of State for Communities and Local Government (2015), which was handed down on 31 July 2015 and the Declaration Order made on 4 August 2015 the appellant provided a signed and dated unilateral undertaking relating to an affordable housing contribution arising from the proposed development. This would result in a limited social benefit of the proposed development. However as the appeal is to be dismissed for other reasons it has not had a significant bearing on my decision.

Conclusion

20. For the reasons set above, and having regard to all matters raised, I conclude that the appeal should be dismissed.

L. Nurser

INSPECTOR

Appeal Decision

Site visit made on 4 February 2016

by David M H Rose BA (Hons) MRTPI

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 13 February 2016

Appeal Ref: APP/L3245/D/15/3137915

Batch End, 2 Yeld Bank, Church Stretton, Shropshire, SY6 6EZ

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
 - The appeal is made by Mr and Mrs Scott and Sue Mitchell against the decision of Shropshire Council.
 - The application reference 15/02642/FUL, dated 17 June 2015, was refused by notice dated 18 August 2015.
 - The development is described as 'proposed remodelling of existing ground floor and first floor extension'.
-

Decision

1. The appeal is dismissed.

Main Issue

2. The main issue is whether the proposal would preserve or enhance the appearance of the Church Stretton Conservation Area.

Reasons

3. The Church Stretton Conservation Area has three main components comprising the early nuclear settlement; late Victorian and Edwardian properties; and post-war housing developments of varying types and sizes. It has a setting of striking topography, with the Stretton Hills to the east and Long Mynd to the west. The town and the surrounding landscape are within the Shropshire Hills Area of Outstanding Natural Beauty.
4. Batch End is an undistinguished squat bungalow constructed of facing brick and timber cladding under a shallow pitched roof. It has similar, contemporary, neighbours some of which have a more pronounced position along Shrewsbury Road. Its wider surrounds include a hillside backdrop with a scatter of imposing, older, dwellings with steep roofs and attractive detailing.
5. Although the proposed remodelling has been carefully conceived to minimise the bulk and height of the altered dwelling, its flat roof form, singular use of timber cladding and its extensive glazing would be at odds with the buildings in the immediate vicinity. Whilst variation is a characteristic of the locality, flat roofs and timber clad buildings are secondary in nature and fenestration tends towards subservience. The combined effects of this layered 'box-like' structure would result in a building of striking, uncharacteristic, outward appearance and a ready focus where none currently exists. To my mind, it would not achieve the stated objective of assimilating well against its wooded backdrop and blending into its surroundings.

6. A key component of good design is the appreciation and understanding of context. In this regard, the bold and angular form of the building, and its atypical external materials, would not accord with Policy CS6 of the Adopted Core Strategy which requires new development to be appropriate in design, taking into account the local context and character; and the call in Policy CS17 for all development to contribute to local distinctiveness.
7. The National Planning Policy Framework (the Framework) acknowledges that planning decisions should not attempt to stifle innovation, originality or initiative; but it too seeks to reinforce local distinctiveness and to integrate new development into the natural, built and historic environment.
8. In this case, the proposed remodelling of the existing bungalow would not preserve or enhance the appearance of this part of the Church Stretton Conservation Area, and its contribution to the designated area as a whole. Although the resultant harm would be 'less than substantial', great weight should be given to the conservation of the designated asset.¹
9. I have noted that the proposed development would preserve the spatial characteristics of the Conservation Area which is but one element in the consideration of the statutory duty. It is said that the appeal site is not located within any of the important spaces identified in the Conservation Area Appraisal, or in views to or from those areas; and it is suggested that the project would not result in harm 'to the more important parts of the Conservation Area'. However, the statutory duty, and the guidance within the Framework, applies to the designated area as a whole.
10. It is also relevant to add that the failure to respect or strengthen local distinctiveness would run counter to the protection of the landscape and scenic beauty afforded to Areas of Outstanding Natural Beauty.
11. The enhanced thermal efficiency of the remodelled dwelling, and savings in fossil fuels, is a factor of little weight as there is no reason to suppose that similar results could not be achieved by a building more fitting for its surroundings. There would be no other public benefits arising from the proposal.
12. In summary, having considered all other matters raised and the balance required by the Framework, I conclude that the proposal would fail to preserve or enhance the appearance of the Church Stretton Conservation Area. On this basis the appeal is dismissed.

David MH Rose

Inspector

¹ National Planning Policy Framework paragraphs 132 & 134

Appeal Decision

Site visit made on 12 January 2016

by Alexander Walker MPlan MRTPI

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 15th February 2016

Appeal Ref: APP/L3245/W/15/3136720

Finger Post Cottage, Hopton Bank, Hopton Wafers DY14 0NA

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
 - The appeal is made by Mr and Mrs Alan and Jo Verth against the decision of Shropshire Council.
 - The application Ref 15/00297/FUL, dated 21 January 2015, was refused by notice dated 29 June 2015.
 - The development proposed is the erection of a single detached dwelling and garage.
-

Decision

1. The appeal is dismissed.

Procedural Matters

2. Following the refusal of the planning application, the Council adopted the Shropshire Council Site Allocations and Management of Development (SAMDev) Plan on 17 December 2015. Accordingly, policies contained within the SAMDev are afforded full weight.

Main Issues

3. The main issue is the effect of the dwelling on the character and appearance of the area; whether it is sustainable development; its effect on biodiversity; and, whether the proposal should make provision for affordable housing

Reasons

Character and Appearance

4. The appeal site forms part of a large, open field that is bounded on all sides by stock proof fencing, hedging and trees, which is typical of other surrounding fields. An existing field gate allows access to the site off the adjacent narrow, country lane. Whilst the hedges and trees screen much of the field, due to its undulating ground levels and elevated position above the ground level of the adjacent lane, some of the field is open to views from the lane.
5. Whilst Hopton Wafers, which together with Doddington is designated as a cluster community in the SAMDev, is only a relatively short distance to the east, the site is physically separated from it by other fields and the A4117. The high hedges and the surrounding fields provide a rural setting that is clearly distinguishable from the village. As a result, the site is read in the context of

- the surrounding undeveloped open countryside rather than the built form of the settlement.
6. A dwelling on this site would introduce a form of built development that would diminish the positive contribution that the undeveloped site makes to the openness of this rural setting. The dwelling would likely be visible to public views, rising above the hedge line, and be an intrusive and prominent feature in the landscape.
 7. Whilst Hopton Wafers has a pattern of development that is a mixture of both linear and sporadic, it nevertheless is contained within a loosely defined cluster. However, the proposal would represent a development that would be far detached from this and would be read as an isolated dwelling rather than an extension to the settlement. Policy S6.2(ii) of the SAMDev, which states that limited housing development within the Community Cluster of Hopton Wafers and Doddington may be acceptable on single plots immediately adjacent to existing development. However, the appeal site does not have any immediate neighbours that form part of the cluster.
 8. Policy MD7a of the SAMDev allows for new dwellings in the countryside only in specific circumstances. The proposed dwelling would not meet any of the criteria set out in this policy.
 9. I find therefore that the dwelling would significantly harm the character and appearance of the area and therefore fails to comply with Policies CS1, CS4 and CS5 of the Shropshire Council Adopted Core Strategy (CS) 2011, which, amongst other matters, focus development in rural areas towards community hubs and community clusters and only permit new development in the open countryside that maintains and enhances the countryside vitality and character. Furthermore, it would fail to accord with Policies S6.2(ii), MD1 and MD3 of the SAMDev, which, amongst other matters, focus development towards identified settlements.

Sustainable Development

10. The Council have confirmed that they have a five year housing land supply. Whilst the appellant argues that there is not a five year supply, there is no substantive evidence before me to justify this contention. Accordingly, the relevant policies for the supply of housing are considered up-to-date¹.
11. For the reasons I have given above, the appeal site does not fall within the cluster community of Hopton Wafer and Doddington. Paragraph 55 of the National Planning Policy Framework (the 'Framework') allows isolated dwellings in the countryside providing there are special circumstances. This is reflected in Policy CS5 of the CS. Although the dwelling would be for a local resident, there is no evidence before me to indicate that the dwelling would meet any of the special circumstances referred to in either paragraph 55 of the Framework or Policy CS5.
12. Although Hopton Wafers is within reasonable walking distance of the appeal site, the facilities within the village are limited to a church, a village hall and a public house. The narrow land leading to the site is unlit and has no pavements. Therefore, it is reasonable to conclude that occupiers of the development would likely be reliant on the use of private vehicles to access

¹ Paragraph 49 of the National Planning Policy Framework

basic facilities and services such as shops, schools, health services and employment.

13. Paragraph 7 of the Framework states that there are three dimensions to sustainable development: economic, social and environmental. During the construction of the dwelling and following its occupation there would be some benefit to the local economy. Also, it would provide a dwelling for a local resident. However, these matters hold limited weight and do not outweigh the concerns I have regarding its significant harm to the character of the area and its heavy reliance on car transport
14. I find therefore that the proposal represents an isolated dwelling within the open countryside in an unsustainable location and therefore fails to comply with the requirements of Policy SC5 of the CS and paragraph 55 of the Framework.

Biodiversity

15. I note that in their reasons for refusal, the Council did not refer to the effect of the development on biodiversity, even though it was referred to as a concern in the Officer's Report. Furthermore, this concern has also been reflected in the Council's Statement of Case. Although the Council did not refer to biodiversity in their reasons for refusal it is my duty to consider all relevant issues before me.
16. I acknowledge that the existing site is used for the grazing of horses. However, the appeal site meets a number of trigger points for requiring an ecological assessment. It is within 250m of a pond that has the potential for great crested newts to be present and it is close to mature trees which have the potential for bats to be present. Also, there is potential for the presence of badger setts to be within or close to the site. Where there is a reasonable likelihood of a species being present, it is essential that the presence of protected species, and the extent to which they would be affected by the development, is established prior to planning permission being granted. Whilst ecological surveys can be carried out under conditions attached to a planning permission, this should only be done in exceptional circumstances². There is no evidence before me to suggest that there are any such exceptional circumstances.
17. I find therefore that in the absence of an ecological assessment of the appeal site it is not possible to ascertain the effect the dwelling would have on protected species. Therefore, the proposal would fail to comply with Policy CS17 of the CS, which, amongst other matters, seeks to protect the ecological value of the area. Similarly, it would fail to accord with paragraph 109 of the Framework, which states that development should conserve and enhance biodiversity.

Affordable Housing

18. Policy CS11 of the CS, supported by Policies MD3 and MD7 of the SAMDev, requires open market housing to make a contribution towards affordable housing. The Council state that the appellant acknowledged the need to make this contribution at the application stage. The appellant has not offered a

² Paragraph 99 of Circular 06/2005 *Biodiversity and Geological Conservation – Statutory Obligations and Their Impact Within the Planning System*

financial contribution in the form of a legal obligation or provided any evidence to demonstrate that it is not viable to meet the policy targets.

19. I find therefore that the proposal should make provision for affordable housing through a financial contribution. In the absence of a contribution the proposal is unacceptable and fails to accord with Policy CS11 of the CS.

Conclusion

20. For the reasons given above, having regard to all matters raised, the appeal is dismissed.

Alexander Walker

INSPECTOR

Appeal Decision

Site visit made on 30 June 2015

by David Spencer BA (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 18 February, 2016

Appeal Ref: APP/L3245/W/15/3006489

Land adjacent Park View, Broseley, Shropshire TF12 5HX

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant outline planning permission.
 - The appeal is made by Mrs Linda Garbett against the decision of Shropshire Council.
 - The application Ref 14/01125/OUT, dated 13 March 2014, was refused by notice dated 2 December 2014.
 - The development proposed is an outline application to include access and layout (scale, appearance & landscaping reserved) for the residential development of six detached houses; formation of vehicular access and estate roads (amended description).
-

Decision

1. The appeal is allowed and planning permission is granted for an outline application to include access and layout (scale, appearance & landscaping reserved) for the residential development of six detached houses; formation of vehicular access and estate roads (amended description) at land adjacent Park View, Broseley, Shropshire TF12 5HX in accordance with the terms of the application, Ref 14/01125/OUT, dated 13 March 2014, and subject to the conditions set out in the schedule at the end of this decision.

Application for costs

2. An application for costs was made by Mrs Linda Garbett against Shropshire Council. This application is the subject of a separate Decision.

Preliminary Matters

3. The appeal proposal was originally submitted as an outline application described as a resubmission of an earlier scheme and included scale as a reserved matter. The description of the appeal proposal has been amended on both the Council's decision notice and the appellant's appeal submission so that it is clearer as to what the proposed development would entail and that scale would be a reserved matter for a detailed planning application. I am satisfied that these modest amendments do not substantively change the proposal and that they more accurately describe the proposed development. Accordingly, I have used the amended description in my decision.
4. The application was submitted in outline with all matters reserved except for access and layout. The Local Planning Authority determined the appeal proposal on this basis and so shall I.

5. Following the site visit, a high court judgment¹ was issued in respect of a Written Ministerial Statement of 28 November 2014 on planning obligations, with particular reference to affordable housing provision on schemes of less than 10 dwellings. Written Ministerial Statement of 28 November 2014. In light of this judgment and consequential changes to the Planning Practice Guidance (PPG), the parties were invited to comment on the bearing, if any, of the judgment and changes to the PPG on this appeal.
6. I received a response from the appellant together with a Unilateral Undertaking (UU), signed and dated 27 August 2015. The proposed contributions in the UU would need to be assessed against the statutory tests set out in the Community Infrastructure Levy (CIL) Regulations 2010.
7. At the time of the site visit the submitted Shropshire Site Allocations and Management of Development Plan (the SAMDev), was in examination including consultation on a number of proposed modifications suggested to make the document sound. The SAMDev was formally adopted on 17 December 2015. Following this change to the development plan, the parties were invited to submit additional representations on the adopted SAMDev and I have taken into account the response received.

Main Issues

8. The main issues in this appeal are firstly whether or not the proposal would provide a suitable site for housing, having regard to the principles of sustainable development and housing land supply and secondly the effect of the proposed access arrangement on highway safety, with particular reference to the relationship to existing access points on Park View.

Reasons

Suitability for Housing

9. The appeal site is outside of but directly adjacent to the development boundary for Broseley. As such it is defined as countryside for the purposes of planning policy. As well as the SAMDev, the development plan also comprises of those policies of the Shropshire Local Development Framework: Adopted Core Strategy March 2011 (the Core Strategy). Core Strategy Policies CS6 and CS17 seek, amongst other things, to protect, conserve and enhance the quality and diversity of the natural environment. Core Strategy Policy CS5 seeks to strictly control new development in the countryside, only allowing specific proposals on an exceptional basis. These policies are consistent with paragraph 17 of the NPPF which identifies recognising the intrinsic character and beauty of the countryside as a core planning principle. Additionally, Policy CS5 reflects paragraph 55 of the NPPF which seeks to avoid new isolated housing in the countryside unless there are special circumstances.
10. The appeal site is situated on the edge of Broseley, a small town with a good range of services, which is identified in Core Strategy Policy CS3 as key centre in eastern Shropshire. The policy states that Broseley will accommodate additional development that balances environmental constraints with meeting local needs. Table 2 within Policy CS3 identifies an indicative scale of development of up to 500 homes in Broseley over the period 2006-2026. The detailed scale of development has been determined through the SAMDev but I

¹ R (aoa West Berkshire District Council and Reading Borough Council) v. SSCLG [2015] EWHC 2222 (Admin)

- have very little evidence that Broseley's role as a sustainable key centre where additional housing development is planned has been diminished in the SAMDev.
11. The appeal site is part of a larger field which is over to pasture. The topography of the field is distinctive in that the appeal site occupies a generally flat area which forms part of a plateau before the land sharply drops away to the west and south west. Accordingly, given the elevated location there are views across the appeal site, including from the public footpath across the southern part of the site, towards the undulating landscape to the west. However, the north-west corner of the appeal is bounded by high hedging and trees which conceal former poultry houses. As such a notable part of the appeal site would have a limited inter-visibility to the wider countryside at this point.
 12. Moreover, the appeal site is adjoined to the north, east and south-east by existing residential development. Despite the presence of some boundary hedging to the appeal site, this residential development, by virtue of its scale and in some cases by being positioned on land that rises above the appeal site, is clearly visible and provides an influential context. As such, the appreciable degree of enclosure resulting from the existing housing around the appeal site means that the appeal proposal would not constitute a harmful breach into open countryside.
 13. I appreciate that the south-west boundary of the appeal site, where the land falls away down towards Tynning Cottage, has no existing boundary and at present provides long range views towards Shirlett from the footpath across the site, parts of Mill Lane to the north and Hockleybank to the east and undoubtedly from a number of residential properties surrounding the appeal site. However, I have very little evidence before me that the appeal site has a local landscape designation or a particular landscape quality that has been objectively assessed as requiring protection. Whilst there are pleasant views over the appeal site towards the wider Shropshire countryside, there is no private right to a view.
 14. In terms of public views, whilst the limited views from Mill Lane and Hockleybank would be affected, I do not consider this harm to be significant, given the degree of existing enclosure and strong residential character along these byways. The views towards Shirlett from the public footpath across the appeal site would be preserved by the proposed layout which leaves a notable undeveloped area in the south-west corner. Additionally, I am satisfied from my observations on my site visit that the topography and intervening tree and hedge cover would mean that the appeal proposal would not be conspicuous in views from public footpaths² to the south-west. Additionally landscaping along the south-west boundary of the site would assist its assimilation into the wider landscape and this would be a reserved matter for a detailed application.
 15. It has also been put to me that the appeal site was part of common land or grazing land known as 'The Tynning' which dates back to the Eighteenth Century. However, I have very little evidence of whether the appeal site is a local heritage asset. The site is not within the Broseley Conservation Area although the boundary of this designation adjoins the appeal site along Mill Lane and the cottages to the east at Hockleybank. I note that the Council's Historic Environment Team considered that there would be no detrimental impact on the Broseley Conservation Area. From my observations on site of

² Footpaths 0114/UN31/2 and 0114/UN21/1

the potential relationship of the appeal proposal and the intervening presence, in places, of other residential development, I share the view that there would be no harm to the setting of the conservation area. I also find, for the reasons set out above, that in terms of character, despite the countryside designation in local planning policy, the appeal proposal would not result in any significant harm to the countryside character in this part of Broseley.

16. Section 38(6) of the planning and Compulsory Purchase Act 2004 requires planning applications to be determined in accordance with the development plan unless material considerations indicate otherwise. This is reaffirmed at paragraphs 11 and 12 of the NPPF and whilst the Core Strategy pre-dates the NPPF I nonetheless find the policies cited in the Council's decision notice to be consistent with the NPPF and therefore in accordance with paragraph 215 of the NPPF these policies carry significant weight. Nonetheless, paragraph 12 of the NPPF reasserts the principle that material considerations could mean that a proposed development that conflicts with the development plan should be approved. The NPPF is a material consideration in the determination of planning applications.
17. The NPPF at paragraph 47 places an obligation on local planning authorities to significantly boost the supply of housing in their area. Consequently, paragraph 49 of the NPPF stipulates that housing applications should be considered in the context of the presumption in favour of sustainable development, which for decision makers is articulated in the second part of paragraph 14 of the NPPF. This means approving development proposals that accord with the development plan without delay or where the development plan is absent, silent or relevant policies out of date, granting permission unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in NPPF taken as a whole.
18. The Council maintains in its appeal statement that it has a 5 year supply of deliverable housing land, predicated on including elements of supply that were contained within the then emerging SAMDev document. The Council has not submitted an additional representation following adoption of the SAMDev. However, the appellant submits that any margin on the five year housing supply is both small and debatable and from the Council's earlier consideration of the appeal proposal, I have very little reason to disagree with this assessment. I am also mindful that where a five year supply is marginal, it should be treated as a minimum and as such the requirement at paragraph 47 of the NPPF to boost housing supply is a notable material consideration.
19. Whilst I note that Core Strategy Policy CS3 expresses Broseley's housing development levels as being up to 500 homes for the period to 2026 which is now reflected as "around 200 dwellings" in Policy S4.1 of the SAMDev, I have very little evidence that either of these quotas should not be breached for sustainability reasons. As such any capping of sustainably located windfall sites that could make a contribution to housing supply would not be in accordance with the NPPF, against which the SAMDev has been prepared.
20. Given the general need to boost the supply of housing, it is my assessment, from the evidence before me, that the appeal proposal, notwithstanding its development plan location in the countryside, should be considered in the context of the balance required at paragraph 14 of the NPPF.

21. To accord with the presumption in favour of sustainable development at paragraphs 14 and 49 of the NPPF, the proposal must jointly and simultaneously achieve the various strands of sustainability. I have no evidence that the proposed development would harm economic sustainability in the area. In terms of social sustainability it would widen the choice of quality homes in Broseley, including a proportion of affordable homes and make a modest contribution to the overall supply of housing. I observed on my site visit new house building taking place at Dark Lane and Duke Street, however, as set out above, I am not persuaded that these developments mean there should be a moratorium on further house building in Broseley given that a deliverable land supply to meet housing need in the District as a whole is only likely to be marginally in excess of 5 years.
22. Importantly, for both the social and environmental dimensions of sustainability, the appeal proposal would be within easy walking and cycling distance of the town centre and other facilities and services in Broseley. Concern has been expressed about the quality of connecting routes to the town centre. I noted that some lengths of both Hockley Road and Swan Street are without footways, but these are relatively short lengths on what are quiet streets within the built fabric of Broseley. There are a number of streetlights on both connecting routes and where footways do exist they are of a reasonable quality such that I cannot see why residents of the proposed dwellings would be deterred from making the short walk into the town centre. I also noted the gradient of Hockley Road from its ascent at No.7 up to the terrace at Hockleybank, but again, this is a relatively short stretch of highway and I did not find the gradient to be atypical from those found elsewhere in the undulating nature of the town.
23. Accordingly, I see little reason why Hockley Road would not provide a convenient and safe access to the town centre, which is only a couple of hundred metres to the east of the appeal site. As such the appeal site would be sustainably located to services and facilities and there is a very real prospect that occupants of the proposed dwellings would not be reliant on the private car to access essential day-to-day services. This would be a notable benefit of the proposed site and as such attracts significant weight in any balancing exercise. Residents have expressed concern that local infrastructure cannot accommodate the demands arising from the appeal proposal. However, I have very little evidence from those service providers either as part of the planning application or appeal processes that there are insurmountable infrastructure capacity issues in Broseley.
24. In terms of the natural environment, the appeal proposal would be integrated within a predominantly residential context at this edge of Broseley and would not harm the wider quality and diversity of the Shropshire rural landscape. As such the objectives of Core Strategy Policies CS5, CS6 and CS17 regarding controlling development in the countryside and protection of the natural environment would remain uncompromised. The appeal proposal would also not constitute the isolated development in the countryside which paragraph 55 of the NPPF cautions against.
25. I therefore conclude that notwithstanding the position of the appeal site in countryside for the purposes of the development plan, the proposal would provide a suitable site for housing, having regard to the principles of sustainable development and housing land supply.

Highway Safety

26. I made an unaccompanied site visit to the appeal site and location on the evening of 29 June 2015 to coincide with the peak period when car borne commuters would be likely to be returning home. I also made an unaccompanied site visit during the mid-morning period on 30 June 2015 prior to an accompanied site visit. My observations during these periods, whilst only snapshots, have, nonetheless, provided me with an appreciation of local highway conditions.
27. The appeal proposal would have an access onto Park View, an adopted highway of reasonable width at the appeal location, which connects a residential area of Broseley to Hockley Road to the east and Swan Street and Woodhouse Road to the north. To the south of the proposed point of access Park View is a no through route and consequently it is a lightly trafficked road, in part due to the alternative connecting road to Hockley Road which avoids Hockleybank.
28. There are generally few parking restrictions in the vicinity of the appeal site and at the time of my site visits, on-street parking on Park View, Hockley Road, Swan Street and Woodhouse Road was limited. I noted an appreciable number of properties benefit from off-street parking and at various locations there appears to be dedicated off-street parking including to the rear of Hockleybank and on Woodhouse Road. Additionally, due to the width of the highway, on-street parking at Hockleybank would not hinder access into the appeal site. Accordingly, I observed little evidence that the highway network connecting the appeal site to the principal roads through Broseley to be congested or that specifically on-street parking would block the proposed point of access.
29. The connecting routes are in places narrow and meandering, involving the highway passing close to the frontage of properties. Whilst these constricted conditions may make HGV deliveries difficult I do not consider that this in itself should be a reason for withholding planning permission. Numerous other properties are served by this historic street pattern and I have little evidence that 6 additional dwellings would place an undue burden on it, particularly in the absence of an objection from the local highway authority. I note that the gradient on a short section of Hockley Road is steep and may well be difficult in wintry conditions, as evidenced by the position of a salt bin on the turn into Hockleybank. However, such conditions would only be temporary and an alternative and level highway access is available via either Swan Street or Woodhouse Road. As such I do not consider the gradient of Hockley Road to be an impediment to safe highway access to the appeal site.
30. The proposed point of access would emerge onto Park View at point where there is an existing gateway and footpath stile into the appeal site and access for the garage and driveway for the dwelling known as 'Langdale'. Opposite the proposed point of access is a single vehicle width passageway which serves an area of communal off-street parking to the rear of No.9 Hockleybank.
31. The appeal proposal would undoubtedly affect the current access arrangements to 'Langdale' in order to secure the required width and visibility. A revised access plan has been submitted by the appellant showing that the necessary standards can be secured without any construction on the landownership of either 'Langdale' or No.42 Park View. I have little contrary evidence that the proposed access involves land other than that under the appellant's control and public highway.

32. It would however, change how 'Langdale' is accessed from the highway, and as such the driveway for this property would be emerging at an angle at the new junction arrangement. However, given the relatively low volumes of traffic from the appeal proposal and the generally low levels of traffic on Hockleybank I do not consider this arrangement to be unsafe. Those regularly accessing the proposed dwellings would be familiar with it and generally the junction layout and the layout of the highway network in the vicinity would induce low traffic speeds. For similar reasons, I also consider the resultant crossroads arrangement with the access to the off-street parking at Hockleybank would be acceptable in respect of highway safety.
33. In considering the highway safety issues I attach significant weight to the lack of an objection from the local highway authority to either the principle of the proposed scale of residential development proposed in this part of Broseley or the specific position and standard of the junction at the proposed point of access. I have not been presented with any compelling contrary evidence in terms of existing local highway safety to lead me to an alternative conclusion other than the proposed access arrangement onto Park View would not result in any significant harm to highway safety. Consequently, the appeal proposal would accord with the sustainable design and development principles of Core Strategy Policy CS6. The proposed dwellings would represent a sustainable pattern of development likely to maximise sustainable transport solutions and avoid any severe impact on the transport network. The proposal would thus accord with paragraphs 30 and 32 of the NPPF.

Other Matters

34. The appeal proposal was originally recommended for approval with paragraph 7.1 of the officer's report noting that an affordable housing contribution in line with Core Strategy Policy CS11 and accompanying SPD³ could be secured by way of a Section 106 agreement at the reserved matters stage. The Council's reasons for refusal do not cite the absence of a contribution towards affordable housing, however, the matter is expanded upon in the Council's appeal statement. Paragraph 4.6 of the statement submits that planning permission should not be granted without an appropriate mechanism to secure the provision of affordable housing.
35. Core Strategy Policy CS11 seeks all developments to achieve an overall target of 33% local needs affordable housing. The supporting text to the policy recognises the practicalities of implementing the policy and sets a threshold of on-site contributions on sites of 5 or more dwellings. On the basis of the policy and the accompanying SPD, the appeal site would trigger a need for two of the proposed dwellings to be affordable and although I have few details on the precise tenure mix that the Council would be seeking I note that the SPD generally seeks a 70:30 split between rented and low cost home ownership.
36. The Unilateral Undertaking (UU) submitted by the appellant makes provision through the submission of reserved matters for the submission of the details of the affordable housing dwellings by tenure, type and bed-space numbers to be agreed by the Council. It also includes a trigger point as to when the completed affordable houses would be transferred and arrangements for the occupation of affordable rented dwellings. It also includes a mechanism

³ Shropshire Local Development Framework: Type and Affordability of Housing Supplementary Planning Document (September 2012)

- whereby any balance after on-site contributions have been provided would be provided by way of a financial payment. I have no submissions from the Council on the content of the submitted UU in response to my correspondence⁴.
37. I am satisfied, in the context of Policy CS11 that the provisions in the submitted UU are necessary to make the development acceptable in planning terms, directly related to the development and fairly and reasonably related in scale and kind to the development. These provisions of the UU therefore comply with the CIL Regulations and so I have taken them into account in making my decision.
38. The occupier of No. 9 Hockleybank submits that the elevated alignment of the proposed access to the dwellings would result in car headlights unacceptably interrupting occupiers of a first floor bedroom which has a window facing towards the appeal site. I have carefully considered the orientation of No.9 and the proposed alignment of the estate road and consider that headlights from vehicles approaching the junction are more likely to be directed towards the gap between No.9 and the terrace to the north. I accept that there will be some ancillary light spill from headlights towards the bedroom window but this would be against a backdrop of street lighting on Hockleybank and the likelihood that a bedroom window would have some means of screening (i.e. curtains, blinds etc). As such I am not persuaded that headlights from the appeal site would result in a significant disturbance to the occupiers of this habitable room at No.9.
39. A number of representations have been received about surface water run-off from the appeal site resulting in localised flooding. I have little evidence that the appeal site results in flash flooding in the locality. However, I note that the land levels on the site slope towards Hockleybank and as such surface water from the appeal site would need to be addressed and this could be secured by condition.
40. The Council's consideration of the appeal proposal took into account the Broseley Town Plan 2013-2016 which was approved by Broseley Town Council on 10 September 2013. The Plan seeks to limit additional housing town over and above that approved on Dark Lane. Policy H.4 seeks to avoid development creating an unacceptable load on the narrow streets of the town. The document also includes Appendix A which provides a settlement policy in the context of the then emerging SAMDev. The policy states that proposed housing developments should be small scale to reflect the local character and the design principles of the Town Plan.
41. From the evidence before I am unclear as to the status and therefore the weight to be attached to the Broseley Town Plan. It has been subject to public consultation and prepared in the context of the Core Strategy and NPPF. Consequently it is a material consideration. In some respects I have found that the appeal proposal would accord with the plan, by virtue of its small scale and the lack of harm to the historic character and highway network. Clearly, there would be conflict with the Plan's housing policy H.1 but this conflict would be outweighed by the material consideration of the NPPF to boost housing supply in sustainable locations such as key centres like Broseley where there is a good range of day-to-day services. I note the Town Council's concerns that the proposal would result in 6 "executive" scale dwellings, but the appeal proposal

⁴ Dated 10 September 2015

would widen housing choice, including, following the submission of the UU, a proportion of affordable housing, which is an important objective of the NPPF.

Conclusions and Conditions

42. Whilst the proposal would conflict with development plan by virtue of being in countryside, the particular characteristics of the appeal site and its sustainable location close to services and facilities in a key centre identified for additional development are significant factors which weigh in favour of the appeal proposal. Importantly, given the evidence of only a marginal five year supply of deliverable housing land the need to boost the supply of housing, including affordable housing to meet local needs, is a material consideration which also weighs heavily in favour of allowing the appeal. The proposal would also be acceptable in terms of local highway safety and residential amenity. However, I have noted that there would be limited harm arising from the loss of some public views over wider countryside. However, the limited localised adverse impacts would not significantly and demonstrably outweigh the benefits and in this way the appeal proposal would represent a sustainable housing development for which there is a presumption for at paragraphs 14 and 49 of the NPPF.
43. For the above reasons, and having regard to all other matters raised in the evidence, I conclude that the appeal should succeed.
44. The Council suggested a number of conditions which would be necessary if the appeal was to be allowed. I have considered these in the light of the Planning Practice Guidance (PPG). For clarity and to ensure compliance with the PPG, I have amended some of the suggested wording. I have also taken into account The Town and Country Planning (Development Management Procedure) (England) Order 2015⁵ which requires specific and carefully justified reasons for the imposition of pre-commencement conditions.
45. I have attached conditions limiting the life of the planning permission and setting out requirements for the reserved matters in accordance with the Act. Given that layout is not a reserved matter I have also added a condition which confirms the approved plans, which is necessary in the interests of proper planning and for the avoidance of doubt. The approved plans included the submitted highway survey plan from October 2014 which the local highway authority deemed acceptable. Access is not a reserved matter and therefore it is not necessary to impose a condition requiring the submission of further details. However, given the topography of the site it is necessary to manage the issue of surface water drainage at the appeal site and in the interests of highway safety and local flood risk this matter cannot be retrospectively addressed once the development has commenced. As such a pre-commencement condition is necessary and I have amalgamated the Council's two suggested conditions in the interests of clarity.
46. A condition requiring a contaminated land site investigation report is necessary to ensure future occupiers of the land are not exposed to unacceptable risks and that proximate water, property and ecological systems are not adversely affected. This too is a matter which cannot be defaulted to a later stage and as such is justifiably a pre-commencement condition. The appeal site is adjoined on three sides by existing residential development and access to the appeal

⁵ Part 6, paragraph 35 (1) (a) (ii)

site for construction traffic is through an historic street pattern. As such conditions controlling the hours of construction and aspects of the construction management are necessary to protect the living conditions of local residents.

47. The Council has also suggested a condition controlling external lighting in the interests of bats that may be foraging the hedgerows around the site. From the plans before me there is no proposed street lighting or floodlighting. Small-scale lighting for householders does not require planning permission and, on balance, I am not persuaded that the Council's suggested condition is necessary or enforceable over the lifetime of the development. Therefore I have not imposed it.

David Spencer

INSPECTOR

Schedule of conditions

- 1) Details of the appearance, landscaping and scale, (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.
- 2) Application for approval of the reserved matters shall be made to the local planning authority not later than three years from the date of this permission.
- 3) The development hereby permitted shall begin not later than two years from the date of approval of the last of the reserved matters to be approved.
- 4) The development hereby permitted shall be carried out in accordance with the following approved plans:
Dwg No HD3 Rev B – Site and Location Plan
Highway Survey Plan (October 2014) which stipulates that. "No new construction shall be carried out on the landownership of Langdale or 42 Park View. Access to these properties are to be kept clear and unaffected."
- 5) As part of the first application for Reserved Matters and prior to the commencement of development a contoured plan of the finished road levels shall be submitted for approval in writing by the local planning authority together with details for the surfacing of the new access road, driveway and parking areas. The submitted plan and accompanying material will confirm that the design has fulfilled the requirements of Shropshire Council's Surface Water Management: Interim Guidance for developers (or successor document) where exceedance flows up to 1in100 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, including measures to intercept water prior to flowing onto the public highway. Development shall be carried out in accordance

with the approved details prior to the first occupation of any of the dwellings.

- 6) No development shall take place until a site investigation of the nature and extent of contamination has been carried out in accordance with a methodology which has previously been submitted to and approved in writing by the local planning authority. The results of the site investigation shall be made available to the local planning authority before any development begins. If any contamination is found during the site investigation, a report specifying the measures to be taken to remediate the site to render it suitable for the development hereby permitted shall be submitted to and approved in writing by the local planning authority. The site shall be remediated in accordance with the approved measures before development begins.

If, during the course of development, any contamination is found which has not been identified in the site investigation, additional measures for the remediation of this source of contamination shall be submitted to and approved in writing by the local planning authority. The remediation of the site shall incorporate the approved additional measures.

- 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
- 8) Construction works shall not take place outside 07:30hours to 18:00hours Mondays to Fridays and 08:00hours to 13:00hours on Saturdays nor at any time on Sundays or Bank Holidays.

Schedule ends.

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