

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

Date: Wednesday, 10 June 2015

**Committee:**  
**Central Planning Committee**

**Date:** Thursday, 18 June 2015  
**Time:** 2.00 pm  
**Venue:** Shrewsbury 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**

Vernon Bushell (Chairman)  
Ted Clarke (Vice Chairman)  
Andrew Bannerman  
Tudor Bebb  
Dean Carroll  
Jane MacKenzie  
Pamela Moseley  
Peter Nutting  
Kevin Pardy  
David Roberts

**Substitute Members of the Committee**

Peter Adams  
Tim Barker  
Roger Evans  
John Overall  
Miles Kenny  
Alan Mosley  
Keith Roberts  
Jon Tandy  
Mansel Williams

Your Committee Officer is:

**Linda Jeavons** Committee Officer

Tel: 01743 252738

Email: [linda.jeavons@shropshire.gov.uk](mailto:linda.jeavons@shropshire.gov.uk)

# AGENDA

## 1 **Apologies for absence**

To receive apologies for absence.

## 2 **Minutes (Pages 1 - 2)**

To confirm the Minutes of the meeting of the Central Planning Committee held on 14 May 2015.

Contact Linda Jeavons on 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 **The Garage, Minsterley, Shrewsbury, Shropshire, SY5 0BW (13/03197/OUT) (Pages 3 - 14)**

Renewal of Extant Planning Permission SA/08/1506/O - Outline application for the erection of twelve business units (consisting of eight B1(a) office units and four B1(c) light industry units) and thirteen dwellings together with a three metre and six metre high acoustic fence to include access and layout.

## 6 **Development Site off Shillingston Drive, Berwick Grange, Shrewsbury, Shropshire (15/00673/REM) - TO FOLLOW**

Approval of reserved matters (appearance, landscaping, layout and scale) pursuant to permission 11/03087/OUT for erection of 230 dwellings including affordable homes; associated garaging; creation of ecological area and play areas.

## 7 **Proposed Development Land West of 12 Little Minsterley, Minsterley, Shrewsbury, Shropshire (15/00808/FUL) (Pages 15 - 36)**

Erection of 1 no: detached bungalow and 1 no: detached 2 storey dwelling; including 2 detached garages, carparking and associated landscaping.

## 8 **Shrewsbury Weir Adjacent Underdale Road, Shrewsbury, Shropshire (15/01395/FUL) (Pages 37 - 62)**

Installation of an underground water turbine alongside the Shrewsbury Weir to generate hydroelectricity from the River Severn and to demolish the existing fish pass and replace it with a new fish pass, fish bywash and debris channel; removal of 7 No trees.

## 9 **Schedule of Appeals and Appeal Decisions (Pages 63 - 88)**

## **10 Date of the Next Meeting**

To note that the next meeting of the Central Planning Committee will be held at 2.00 pm on Thursday, 16 July 2015 in the Shrewsbury Room, Shirehall.

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<b><u>Committee and Date</u></b>
Central Planning Committee
18 June 2015

**CENTRAL PLANNING COMMITTEE**

**Minutes of the meeting held on 14 May 2015 in the Council Chamber, Shirehall, Abbey Foregate, Shrewsbury, SY2 6ND**

**Responsible Officer:** Linda Jeavons  
Email: linda.jeavons@shropshire.gov.uk Tel: 01743 252738

**Present**

Councillors Andrew Bannerman, Dean Carroll, Ted Clarke, Jane MacKenzie, Pamela Moseley, Kevin Pardy, Peter Adams (Substitute) (substitute for Tudor Bebb), Tim Barker (Substitute) (substitute for David Roberts), Alan Mosley (Substitute) (substitute for Vernon Bushell) and Keith Roberts (Substitute) (substitute for Peter Nutting)

**1 Election of Chairman**

**RESOLVED:** That Councillor Vernon Bushell be elected Chairman for the ensuing municipal year.

**2 Apologies**

Apologies for absence were received from Councillors Tudor Bebb (Substitute: Peter Adams), Vernon Bushell (Substitute: Alan Moseley), Peter Nutting (Substitute: Keith Roberts) and David Roberts (Substitute: Tim Barker).

**3 Appointment of Vice-Chairman**

**RESOLVED:** That Councillor Ted Clarke be appointed Vice Chairman for the ensuing municipal year.

**4 Date of Next Meeting**

**RESOLVED:** That it be noted that the next meeting of the Central Planning Committee be held at 2.00 pm on Thursday, 21 May 2015 in the Shrewsbury Room, Shirehall, Shrewsbury.

Signed ..... (Chairman)

Date: .....

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Committee and date

Central Planning Committee

18 June 2015

## Development Management Report

Responsible Officer: Tim Rogers

email: [tim.rogers@shropshire.gov.uk](mailto:tim.rogers@shropshire.gov.uk) Tel: 01743 258773 Fax: 01743 252619

### Summary of Application

<b><u>Application Number:</u></b> 13/03197/OUT	<b><u>Parish:</u></b>	Minsterley
<b><u>Proposal:</u></b> Renewal of Extant Planning Permission SA/08/1506/O - Outline application for the erection of twelve business units (consisting of eight B1(a) office units and four B1(c) light industry units) and thirteen dwellings together with a three metre and six metre high acoustic fence to include access and layout		
<b><u>Site Address:</u></b> The Garage Minsterley Shrewsbury Shropshire SY5 0BW		
<b><u>Applicant:</u></b> Bovale Limited		
<b><u>Case Officer:</u></b> Andrew Gittins	<b><u>email:</u></b> <a href="mailto:planningdmc@shropshire.gov.uk">planningdmc@shropshire.gov.uk</a>	

**Grid Ref:** 337917 - 305304

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**Recommendation: Grant permission subject to a Section 106 Legal Agreement requiring the submission of a written Viability Appraisal of the Development to allow the Council to assess the level of Affordable Housing Contribution due from the Landowner (if any) if the Total Scheme Surplus is more than a percentage to be agreed by the Developer and the Council.**

## REPORT

### 1.0 THE PROPOSAL

1.1 The application seeks approval for the renewal of planning permission SA/08/1506/O which at appeal received outline consent for the erection of twelve business units (consisting of eight B1(a) office units and four B1(c) light industry units) and thirteen dwellings together with three and six metre high acoustic fence to the western boundary, to include access and layout.

1.2 The scheme consists of:

Houses:

- A – Two 4 bed, 2 storey
- B – Four 3 bed, 2 storey
- C – Two 5 bed, 2.5 storey
- D – Two 5 bed, 2.5 storey
- E – Three 4 bed, 2.5 storey

Each dwelling benefits from two parking spaces. Three of the units have proposed garages.

Office units:

- Eight B1(a) Offices not within Class A2
- Four B1(c) Light Industry

### 2.0 SITE LOCATION/DESCRIPTION

2.1 The site which extends to 0.54ha is located within the Village Boundary of Minsterley as defined by the Proposals Map of the Shrewsbury and Atcham Borough Council Local Plan. A small portion (0.17ha) in the western corner of the site was previously a bus depot and previously a Protected Employment Site as allocated by Policy EM2: Protection of Employment Land. This Policy has been replaced by Shropshire Core Strategy Policy CS14: Managed Release of Employment Land. This Policy states that the portfolio of employment land and premises will be supported by protecting existing strategic employment land and premises to secure these sites for employment uses. The Policy sets sites above 0.1 hectares as the threshold for designation as strategic employment land.



### 3.0 REASON FOR COMMITTEE DETERMINATION OF APPLICATION

3.1 The application is presented to Committee as Minsterley Parish Council have submitted a view contrary to Officers recommendation for approval based on material planning reasons. These contrary views cannot reasonably be overcome by negotiation or the imposition of planning conditions; and the Area Manager and Principal Planning Officer in consultation with the committee chairman and vice chairman and the Local Member agrees that the Parish Council has raised material planning issues and that the application should be determined by committee.

### 4.0 Community Representations

#### 4.1 Consultee Comments

4.1.1 **Minsterley Parish Council:** This application is flawed and is unlikely ever to be built resulting in waste and unsightly area in the main route into the village. The site is adjacent to the ammonia store at Muller Dairy and in a potentially explosive and catastrophic situation if there is a leak from the store. The site is over crowded makes no public space available. The residential units are too dense for the site.

4.1.2 **Shropshire Council Highways:** The highway authority raises no objections to the renewal of this extant planning consent.

Conditions:- None recommended.

Informative(s):- None.

Key Issues:- None.

Background:- No additional comment.

4.1.3 **Shropshire Council Ecologist:** No comments.

4.1.4 **Shropshire Council Drainage:** A drainage condition should be attached to the Renewal of Extant Planning Permission SA/08/1506/O.

4.1.5 **Shropshire Council Public Protection:** Having considered the site and past information provided I would like to specify the need for conditions stated in the Appeal Decision APP/L3245/A/10/2127350 on application SA/08/1506/O to be placed upon this decision specifically conditions 6, 7, 10 and 12 which related to noise, contaminated land and lighting.

4.1.6 **Shropshire Council Housing Enabling:** Comments to follow.

#### 4.2 Public Comments

4.2.1 The application was advertised by way of a Site Notice and an advert published in the Shropshire Star on the 20<sup>th</sup> August 2013, together with neighbour notification letters sent to 35 properties on the 13<sup>th</sup> August 2013. In response to this consultation one letter has been received objecting on the following grounds:

- Principle of additional industrial development and associated rubbish and

- litter.
- Traffic
- Noise
- Foul and surface water drainage

## 5.0 THE MAIN ISSUES

### **Material changes in planning policy since granting of appeal Affordable housing contribution**

## 6.0 OFFICER APPRAISAL

### 6.1 Material changes in planning policy since granting of appeal

#### 6.1.1 The original application was refused on the following grounds:

1. The proposed residential development would result in the loss of Class B employment land and accordingly the scheme is contrary to Policy EM2 of the adopted Shrewsbury and Atcham Borough Local Plan.
2. The Local Planning Authority considers that the existing noise levels generated by the adjacent creamery would be detrimental to the amenities which the occupiers of the proposed dwellings would reasonably expect to enjoy and therefore would be contrary to Planning Policy Guidance Note 24.

6.1.2 Since the granting of the appeal on the 9<sup>th</sup> September 2013 unless saved the policies of the Shrewsbury and Atcham Borough Local Plan have been replaced by the Shropshire Core Strategy (March 2011). The application site is located within the Minsterley Development Boundary as defined by saved SABC Policy HS3. The application site continues to be located within the Minsterley Development Boundary as proposed in CD3 policy maps s12 Minsterley and Pontesbury Inset Map which is a Core Document to the emerging SAMDev Plan. As such the application will be assessed against Core Strategy Policies CS3: The Market Towns and Other Key Centres, which outlines that as a combined Key Centre Minsterley and Pontesbury will accommodate the development of up to 260 houses and approximately 2 hectares of employment land to enhance their linked roles providing employment and services in the local area, whilst retaining their distinctive and separate identifies.

#### 6.1.3 Employment Land Supply

Policy EM2: Protection of Employment Land of the Shrewsbury and Atcham Borough Plan has been replaced by Shropshire Core Strategy Policy CS14: Managed Release of Employment Land.

6.1.4 A small section of the site is still classified as protected employment land under CS14. However, the level of protection is proportionate to the size of the site, which is relatively small in comparison to other protected sites. The application has been referred to Shropshire Council's Planning Policy who responded positively to this proposal as it guarantees delivery of half of the site for employment use which is preferable to the site remaining undeveloped or being developed purely for housing. As such the proposal is considered to be in overall compliance with Core

Strategy Policies CS3 and CS14.

## **6.2 Affordable housing contribution**

**6.2.1** Core Strategy Policy CS11: Type and Affordability of Housing requires all new open market residential development to make an appropriate contribution towards local needs affordable housing in accordance with the prevailing rate as set out in the Supplementary Planning Document. In the case of outline proposals the level of contribution is determined by the rate current at the time of the submission of the reserved matters application. At present the prevailing rate is 15% which on a 13 dwelling scheme would require the delivery of one on-site dwelling and an off-site contribution of 0.95.

**6.2.2** During determination of the previous appeal the Inspector determined (paragraph 51) that the provision of an affordable housing contribution of 35% would render the scheme unviable at that time, and the appeal was allowed subject to a Planning Obligation which required that a further viability appraisal be undertaken during the course of the development, with a view to a payment of an affordable housing contribution, depending on the scheme surplus, at that stage.

**6.2.3** The current application has been submitted with a viability appraisal which is being assessed by the Council's Housing Enabling Officer. Should the Council agree with the Inspector's determination that the scheme would not be viable with an affordable housing contribution then, as per the original appeal if approved the proposal would be subject to a Section 106 legal agreement with a 'overage' clause. The Viability Appraisal demonstrates that the scheme would not be viable with a CIL contribution. However, this would not be an issue which would be considered until the submission of Reserved Matters when the proposed chargeable floor area is known.

## **7.0 CONCLUSION**

**7.1** In accordance with the Inspector's previous appeal decision Officer's continue to be of the opinion that the loss of a small part of the designated employment land is acceptable as it guarantees delivery of half of the site for employment use which is preferable to the site remaining undeveloped or being developed purely for housing. The proposal would provide acceptable living conditions for future occupiers of the dwellings with regard to noise from the adjoining factory and there are no other material planning objections to the scheme from internal or statutory consultees. The proposal is therefore considered to comply with:

### Shropshire Core Strategy Polices:

CS3 – Market Towns and Other Key Centres  
 CS6 – Sustainable Design and Development Principles  
 CS9 – Infrastructure Contributions  
 CS11 – Type and Affordability of Housing  
 CS13 – Economic Development Enterprise and Employment  
 CS14 – Managed Release of Employment Land  
 CS17 – Environmental Networks  
 CS18 – Sustainable Water Management

National Planning Policy Framework

## **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 1970.

## 9.0 Financial Implications

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

## 10. Background

### Relevant Planning Policies

Central Government Guidance:  
National Planning Policy Framework  
Planning Practice Guidance

Core Strategy and Saved Policies:  
CS3 – Market Towns and Other Key Centres  
CS6 – Sustainable Design and Development Principles  
CS9 – Infrastructure Contributions  
CS11 – Type and Affordability of Housing  
CS13 – Economic Development Enterprise and Employment  
CS14 – Managed Release of Employment Lane  
CS17 – Environmental Networks  
CS18 – Sustainable Water Management

### RELEVANT PLANNING HISTORY:

SA/94/0699 Residential development and alterations to existing vehicular and pedestrian accesses. REFUSE 14th December 1994

SA/08/1506/O Outline application for the erection of twelve business units (consisting of eight B1(a) office units and four B1(c) light industry units) and thirteen dwellings together with a three metre and six metre high acoustic fence to include access and layout REFUSE 15th January 2010

SA/07/0826/O Outline application for the erection of 32 residential dwellings to include layout of the site, scale of buildings and means of access to the site WDN 5th October 2007

SA/06/1593/O Outline application for the erection of 32 residential dwellings to include layout of the site, scale of the buildings and means of access to the site. WDN 17th January 2007

### Appeal

10/01754/REF Outline application for the erection of twelve business units (consisting of eight B1(a) office units and four B1(c) light industry units) and thirteen dwellings together with a three metre and six metre high acoustic fence to include access and layout  
ALLOW 9th September 2010

11. Additional Information

[View details online:](#)

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

### Conditions

#### STANDARD CONDITION(S)

1. Details of the appearance, landscaping and layout (hereinafter called "the reserved matters") shall be submitted to and approved in writing by the local planning authority before any development begins and the development shall be carried out as approved.

Reason: The application is an outline application under the provisions of Article 1(2) of the Town and Country Planning General Development (Procedure) Order 1995 and no particulars have been submitted with respect to the matters reserved in this permission.

2. Application for approval of reserved matters shall be made to the local planning authority before the expiration of three years from the date of this permission.

Reason: This condition is required to be imposed by Section 92 of the Town and Country Planning Act, 1990.

3. The development hereby permitted shall begin before the expiration of two years from the date of approval of the last of the reserved matters to be approved.

Reason: This condition is required to be imposed by Section 92 of the Town and Country Planning Act, 1990.

4. The following information shall be submitted to the local planning authority concurrently with the first submission of reserved matters:

The means of enclosure of the site  
The levels of the site  
The means of access for disabled people  
The finished floor levels

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

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

5. No development shall take place on site until a scheme of the proposed surface and foul water drainage has been submitted to, and approved by the Local Planning Authority. The approved schemes shall be completed before the development is occupied.

Reason: To ensure satisfactory surface water drainage of the site and to minimise flood risk elsewhere as a result of the development and also to ensure that the foul water drainage system complies with the Building Regulations H2.

6. No development shall take place until a scheme for the insulation of all the dwellings hereby approved in respect of noise has been submitted to and approved in writing by the Local Planning Authority. The insulation shall be carried out in accordance with the

approved details prior to the first occupation of each dwelling and shall thereafter be retained.

Reason: In order to protect the amenities of the occupants of the proposed dwellings.

7. No development shall take place until details of the acoustic fence hereby approved have been submitted to and approved in writing by the Local Planning Authority. The acoustic fence shall be constructed in accordance with the approved details prior to the first occupation of any dwelling and shall thereafter be retained.

Reason: In order to protect the amenities of the occupants of the proposed dwellings.

8. No development shall take place until details of the access, including its detailed layout, construction and visibility splays have been submitted to and approved in writing by the Local Planning Authority. The access shall be constructed in accordance with the approved details and no building shall be occupied until the approved details are fully implemented. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 2015 (or any Order revoking, re-enacting or modifying that Order), no fences, walls, other structures or hedges shall be erected or grown within the approved visibility splays.

Reason: In the interests of highway safety.

9. No development shall take place until details of the parking, turning, loading and unloading facilities, the surfacing material, and a programme for the implementation of the work, have been submitted to and approved in writing by the local planning authority. Development shall be carried out in accordance with the approved details and in accordance with the approved programme, and the parking, turning, loading and unloading facilities shall thereafter be retained clear of obstruction at all times.

Reason: In the interests of highway safety.

10. The works contained in the Remediation Method Statement (Geotechnical Developments (UK) Ltd (June 2008)) must be carried out prior to the commencement of the development (other than such works as are required to carry out the remediation). The local planning authority must be given two weeks prior written notification of the commencement of the remediation works. Following the completion of the measures identified in the Remediation Method Statement a verification report (referred to in PPS23 as a validation report) that demonstrates the effectiveness of the remediation shall be submitted in writing to the local planning authority and approved in writing prior to the occupation of any of the buildings.

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.

11. Prior to construction and/or demolition activities occurring on site a dust management statement detailing how the developer will reduce dust from spreading off the site shall be submitted to the local planning authority for approval in writing. Any methods



contained within any approved statement shall be implemented on site. Reason: to protect the amenity of the area and the health and wellbeing of local residents.

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

12. Prior to the first occupation of any of the business units, details of covered and secure cycle parking shall be submitted to and approved in writing by the local planning authority. The cycle parking shall be provided in accordance with the approved details prior to the first occupation of any business unit and shall thereafter be retained.

Reason: In order to promote sustainable travel choices.

13. Prior to the first occupation of any of the business units, details of floodlighting and/or external lighting of the units and/or open areas, including the associated car parking and servicing areas, shall be submitted to and approved in writing by the local planning authority. Development shall be carried out in accordance with the approved details prior to the first occupation of any business unit and no additional lights shall be erected.

Reason: In order to protect the residential amenities of the properties.

14. Dwellings nos. 4 - 13 (inclusive) as shown on plan SK012D shall not be occupied until after the B1(a) buildings hereby approved has been erected.

Reason: In order to ensure the appropriate provision of the commercial element of the scheme in a phased manner.

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

15. No open storage of materials, products, plant or equipment shall take place within the curtilage of the business units, and no goods or products shall be displayed for sale and no retail sale of any description shall take place on the open parts of the site.

Reason: In the interests of the visual amenity of the area.

16. The business units shall be used for B1(a) offices and B1(c) light industry as shown on plan SK012D and for no other purpose (including any other purpose in Class B1 of the Schedule to the Town and Country Planning (Use Classes) Order 1987, or in any provision equivalent to that Class in any statutory instrument revoking and re-enacting that Order (with or without modification).

Reason: In order to restrict the use of the premises in the interest of the amenities of the area.

17. The gradient of the access from the edge of the highway carriageway shall not exceed 1 in 24 for a distance of 15 metres.

Reason: To provide a safe access to the development in the interests of highway safety.

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

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

19. No burning shall take place on site including during clearance of the site.

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

### **Informatives**

1. 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.
2. In order to make the properties ready for electric vehicles, the applicant should consider the installation of charging point isolation switches should be connected so that a vehicle may be charged where off road parking is provided. This should involve the provision of an independent 32 amp radial circuit isolation switch at each property for the purpose of future proofing the installation. The charging point must comply with BS7671. A standard 3 pin, 13 amp external socket will be required. The socket should comply with BS1363, and must be provided with a locking weatherproof cover if located externally to the building.

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Committee and date

Central Planning Committee

18 June 2015

## Development Management Report

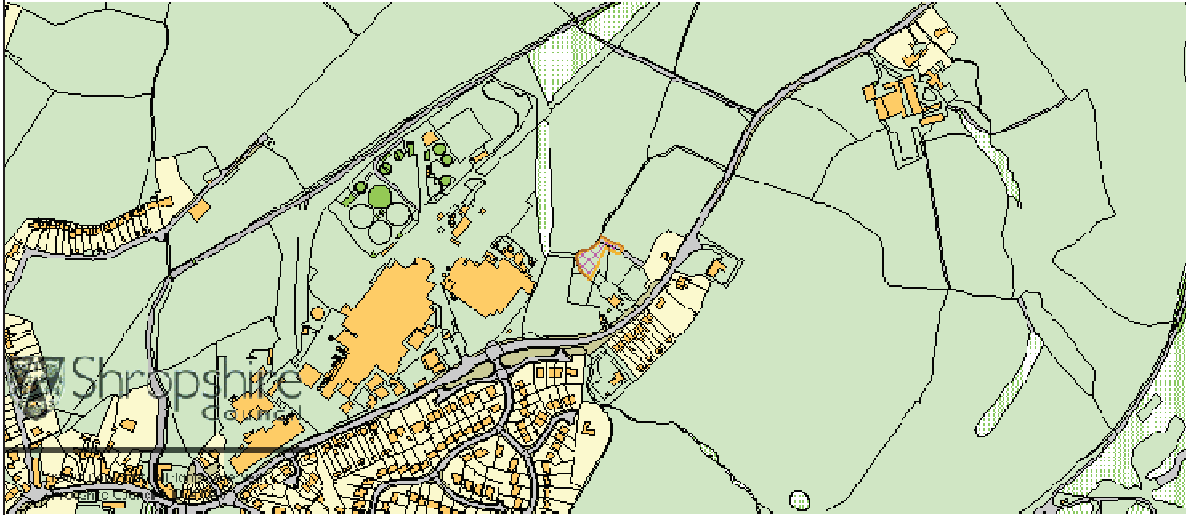
Responsible Officer: Tim Rogers

email: [tim.rogers@shropshire.gov.uk](mailto:tim.rogers@shropshire.gov.uk) Tel: 01743 258773 Fax: 01743 252619

### Summary of Application

<b><u>Application Number:</u></b> 15/00808/FUL	<b><u>Parish:</u></b>	Minsterley
<b><u>Proposal:</u></b> Erection of 1no: detached bungalow and 1no: detached 2 storey dwelling; including 2 detached garages, car parking and associated landscaping		
<b><u>Site Address:</u></b> Proposed Development Land West Of 12 Little Minsterley, Minsterley Shrewsbury Shropshire.		
<b><u>Applicant:</u></b> Mr Steve Jennings		
<b><u>Case Officer:</u></b> Nanette Brown	<b><u>email:</u></b> <a href="mailto:planningdmc@shropshire.gov.uk">planningdmc@shropshire.gov.uk</a>	

**Grid Ref:** 337961 - 305352



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**Recommendation:- That delegated powers be granted to the Planning Manager to grant outline planning permission; subject to the conditions listed at appendix 1 and subject to the applicants entering into a S106 agreement to secure the provision of affordable housing.**

## **REPORT**

### **1.0 THE PROPOSAL**

- 1.1 This application seeks full planning permission for the erection of one detached three bedroom bungalow and one detached two, storey two bedroom dwelling. The application also includes two detached garages with car parking and associated landscaping. Proposed materials include red multi bricks, grey tiled roof and cream render.
- 1.2 To the immediate south and south east of the application site lies a parcel of land that includes a former timber/builders yard that was granted outline planning permission for residential development last year (Ref: 14/01684/OUT). A reserved matters application for this site has now also been submitted to this Local Planning Authority for the erection of 16 dwellings including vehicular access off the A488 (Ref: 15/00809/REM). The proposed access for two dwellings contained in this application would be taken off the roadway that is proposed to form part of the adjacent development.

### **2.0 SITE LOCATION/DESCRIPTION**

- 2.1 The site is situated at the north eastern end of Minsterley, set to the north of the A488 that runs through the village. The site comprises of a rough grassed area that lies to the rear of a former timber/builders yard and it is thought that this site was used for outside storage of materials for this former use. A small brook runs along the north western site boundary.
- 2.2 As set out above to the immediate south and south east of the application site lies a parcel of land that includes a former timber/builders yard that was granted outline planning permission for residential development last year (Ref: 14/01684/OUT). To the south of the site lies a detached building, Meadow Brook, used as an office with residential flat above, and to the south west is a currently vacant site that has been granted planning permission for development for 12 business units and 13 dwellings (SA/08/1506/O & 13/3197/OUT).
- 2.3 Residential properties are located opposite the site, on the south side of the A488.

### **3.0 REASON FOR COMMITTEE DETERMINATION OF APPLICATION**

- 3.1 Minsterley Parish Council have submitted a view contrary to officers recommendation for approval based on material planning reasons that cannot

reasonably be overcome by negotiation or the imposition of planning conditions; and the Area Manager in consultation with the Locally Elected Member and Committee Chairman and Vice Chairman agrees that the Parish Council has raised material planning issues and that the application should be determined by committee.

#### **4.0 Community Representations**

##### **4.1 - Consultee Comments**

###### **4.1.1 SC Public Protection - Specialist - No objection**

There is a creamery to the west of the proposed development which has the potential to generate noise. A noise assessment in order to establish if any noise mitigation is required to any proposed property. Advise that this is submitted prior to a decision on this application however would be satisfied if this was conditioned appropriately.

###### **4.1.2 SC Highways – No objection**

Note: the foregoing highway comments/advice are based upon a desktop assessment

Comments

The proposal is for two further properties served by the combination of a private drive and new estate road off the A488. The private drive and estate road is the subject of an earlier planning application 14/01684/OUT and the reserved matters application 15/00809/REM which is yet to be determined.

The current application as submitted has not included the full length of the access route between the site and the principal road within the red line and is therefore divorced from the adopted highway. Whilst the proposed access route has been approved in principle the details of the layout and construction have yet to be approved and in this respect the current application may be considered premature? However, the principle of serving this site by the proposed 'new road' is acceptable and raises no highway concerns as the new access is considered satisfactory to serve two further properties.

The proposed parking for each of the two houses as shown on drawing PL103 are acceptable.

Informative

The formation of or alteration of an access apron will require works to cross the highway verge, the applicant or their contractor will require a 'Licence to work on the highway' prior to commencing. Please advise the applicant that details of this, the fee charged and the specification for the works is available on the Council's website.

## Background

Planning consent 14/01684/OUT and reserved matters application pending determination 15/00809/REM

### 4.1.3 **SC Trees – No objection**

There are a number of trees on this site. An Arboricultural Impact Assessment has been submitted with the application to demonstrate the impact of the development on existing trees, hedges and shrubs and to justify and mitigate any losses that may occur.

The AIA has been prepared broadly in accordance with BS 5837 (2012). The AIA has identified 4 trees and 6 groups of trees. In order to facilitate the development it is recommended that 1 tree and 3 groups of trees are removed. These specimens are of low public amenity value and it is agreed that their loss could be mitigated through replanting.

No objection is raised to the application. It is recommended that any grant of planning permission is subject to the following condition:

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

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

b) No works associated with the development permitted will commence and no equipment, machinery or materials will be brought onto the site for the purposes of said development until a Tree Protection Plan and Arboricultural Method Statement prepared in accordance with and meeting the minimum tree protection requirements recommended in BS5837: 2012 or its current equivalent have been submitted and approved in writing by the Local Planning Authority. All tree protection measures detailed in the approved Tree Protection Plan and Arboricultural Method Statement must be fully implemented as approved before any equipment, machinery or materials are brought onto the site for the purposes of the development. All approved tree protection measures must be maintained throughout the development until all equipment, machinery and surplus materials have been removed from the site. Nothing shall be stored or placed in any area fenced in accordance with this condition and the ground levels within those areas shall not be altered nor any excavation be made, without the prior written consent

of the Local Planning Authority.

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

d) No works associated with the development permitted will commence and no equipment, machinery or materials will be brought onto the site for the purposes of said development until a responsible person has been appointed for day to day supervision of the site and to ensure that the tree protection measures are fully complied with. The Local Planning Authority will be informed of the identity of said person.

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

#### 4.1.4 **SC Drainage - comments**

The drainage details, plan and calculations could be conditioned if planning 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. However no details and sizing of the proposed soakaways have been supplied. 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.

If soakaways are not feasible, drainage calculations to limit the discharge rate from the site equivalent to a greenfield runoff rate should be submitted for approval. The attenuation drainage system should be designed so that storm events of up to 1 in 100 year + 30% for climate change will not cause flooding of any property either within the proposed development or any other in the vicinity.

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.



2. 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 and must not be lower than the floor level of the existing building.

Reason: To minimise the risk of surface water flooding

3. Where no modelled flood outline exists for a watercourse, the surface water flood map should be used as an initial guide to the extent of the flood plain associated with that watercourse.

No flood modelling has been carried out on the watercourse which runs adjacent to the development site but is known to have flooding problems. Environment Agency surface water flood mapping should be used as a guide where it should be assumed that the low risk flooding equates to the Flood Zone 2 area, the medium risk flooding equates to Flood Zone 3a and the high risk flooding equates to Flood Zone 3b. To ensure climate change is accounted for, the current low risk flooding area can be considered as an estimate of the medium risk flooding within 100 years and the medium risk flooding can be considered as an estimate of the high risk flooding with 100 years. The developer may wish to produce a flood model to verify the flood extents.

Reason: To ensure that it complies with the National Planning Policy Framework and the Technical Guidance to the National Planning Policy Framework.

4. 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.

Reason: To minimise the risk of groundwater flooding.

5. 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.

6. If non permeable surfacing is used on the driveways and/or the driveways slope towards the highway, the applicant should submit for approval a drainage system to

intercept water prior to flowing on to the public highway

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

7. Meadow Brook is located on the north eastern site boundary. A 3m wide easement from the top of the watercourse bank, is required for maintenance purposes.

Please provide information on the proposed maintenance regime for the watercourse including details of who will take riparian responsibility.

Reason: To ensure future maintenance of the watercourse is maintained.

8. Ordinary Watercourse Consent is required from Shropshire Council for any works within the channel of the watercourse that will obstruct/ affect the flow of the watercourse including temporary works. Ordinary Watercourse Consent Application Form and Guidance Notes are on the Council's website: [www.shropshire.gov.uk/flooding](http://www.shropshire.gov.uk/flooding)

Reason: To ensure that it complies with the Land Drainage Act 1991

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

#### 4.1.5 **SC Ecologist – No objection**

Recommendation: The following informatives and conditions should be on the decision notice.

##### Nesting Birds

There are trees and hedgerows adjacent this site which may provide habitat for nesting birds. The following informative should be on the decision notice.

##### 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.

#### Bats

There are trees adjacent this site which may contain features suitable for a bat roost. This site provides potential habitat for foraging and commuting bats. This site should be enhanced for the provision of bat species. The following conditions and informative should be on the decision notice.

1. 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

2. 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.

#### Informative

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).

Any trees within the hedgerows may have potential for roosting bats. If these trees are to be removed then an assessment and survey for roosting bats must be undertaken by an experienced, licensed bat ecologist in line with The Bat Conservation Trusts Bat Surveys Good Practice Guidelines prior to any tree surgery work being undertaken on these trees.

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

#### Informative

Special consideration should be made to minimise the impact lighting would have on any bats. Lighting should not shine on potential ecological corridors and should be in line with the advice available in the Bat Conservation Trust booklet Bats and Lighting in the UK.

**4.1.6 SC Affordable Housing – No objection**

The affordable housing contribution pro-forma accompanying the application indicates the correct level of contribution and/or on site affordable housing provision and therefore satisfies the provisions of the SPD Type and Affordability of Housing

**4.1.7 Minsterley Parish Council – Objection**

The development is outside the development boundary of the village that is published parish council policy, it is not one of the two sites identified by the parish council for development under SAMDev, it is not in the parish plan it is an area prone to flooding, and has access onto a busy trunk road

**4.2 - Public Comments**

None received

**5.0 THE MAIN ISSUES**

**Principle of development**  
**Affordable Housing**  
**Siting, scale and design of structure**  
**Drainage and Flooding**  
**Highway Safety/Site Access**  
**Ecology/Trees**

**6.0 OFFICER APPRAISAL****6.1 Principle of development**

6.1.1 Under section 38(6) of the Planning and Compulsory Purchase Act 2004, all planning applications must be determined in accordance with the adopted development plan unless material considerations indicate otherwise. Since the adoption of the Councils Core Strategy the National Planning Policy Framework (NPPF) has been published and is a material consideration that needs to be given weight. Paragraph 12 of the NPPF states that 'Proposed development that accords with an up-to-date Local Plan should be approved, and proposed development that conflicts should be refused unless other material considerations indicate otherwise'

6.1.2 With regards to housing development paragraph 49 of the NPPF states that:

'Housing applications should be considered in the context of the presumption in favour of sustainable development'

and that:

'Relevant policies for the supply of housing should not be considered up-to-date if the local planning authority cannot demonstrate a five-year supply of deliverable housing sites.

Following the submission of the SAMDev Final Plan to the Planning Inspectorate at the end of July, the Council's position is that it has identified sufficient land that will address the NPPF 5 year housing land supply requirements. In the calculation of the 5 years' supply, the Council recognises that full weight cannot yet be attributed to the SAMDev Final Plan housing policies where there are significant unresolved objections. Full weight will be applicable on adoption of the Plan following examination but, even as that document proceeds closer to adoption, sustainable sites for housing where any adverse impacts do not significantly and demonstrably outweigh the benefits of the development will still have a strong presumption in favour of permission under the NPPF, as the 5 year housing supply is a minimum requirement and the NPPF aim of significantly boosting housing supply remains a material consideration. However, with a 5 years' supply including a 20% buffer and supply to meet the considerable under-delivery since 2006, existing planning policies for the supply of housing are not out-of-date by virtue of NPPF para 49 and these provide the starting point for considering planning applications.

- 6.1.3 The application site in this case is located on the edge of Minsterley, in open countryside in terms of planning policy, with policy CS5 of the Core Strategy applying. Core Strategy Policy CS3 is also relevant as Minsterley is proposed to be a joint key centre with Pontesbury within the Pre-submission Draft SAMDev Plan published on 17th March 2014. A development boundary is proposed for Minsterley and Policy S12 of the Pre-submission Draft (Final Plan) SAMDev Plan proposes a guideline of a total of 260 additional dwellings for the two villages for the period 2011-2026 (of which 138 have already been identified as having been built or committed between 2006 and 2013). Policy S12 also identifies 2 preferred sites at Hall Farm, and Callow Drive that would potentially provide a total of 49 houses. New housing development will be delivered through a combination of allocated sites and windfall opportunities on existing brownfield and other infill sites.
- 6.1.4 The application site does form part of a much larger site that was considered as part of the SAMDev site allocation process for potential residential and employment uses. This larger site was rejected as the it was considered to have overall poor sustainability taking into account lack of access to some facilities, flooding constraints and close proximity to the nearby food manufacturing operation. The current application site is located towards the southern end of this wider site that does not fall within the EA identified flood zones and lies close to existing buildings/dwellings within the village.
- 6.1.5 Notwithstanding the above, proposals must be assessed with a presumption in favour of sustainable development as defined throughout the NPPF. As such the key factor in determining this application is the assessment of whether the proposal would represent sustainable development and whether the adverse impacts of granting permission would significantly or demonstrably outweigh the benefits, when assessed against the policies in the NPPF taken as a whole.

- 6.1.6 Minsterley is a village with existing built development predominantly located either side of the A488 running through the centre of the village. There are a variety of services currently provided within the village in the form of a public house, a bus service providing links to Shrewsbury and Bishops Castle, a grocery store and petrol garage, a post office, takeaway, butchers, florist, vets, primary school, pre-school nursery, church and village hall.
- 6.1.7 Paragraph 55 of the NPPF advises that to promote sustainable development in rural areas, housing should be located where it will enhance or maintain the vitality of rural communities. For example, where there are groups of smaller settlements, development in one village may support services in a village nearby. Minsterley is located within close proximity with Pontesbury, linked by the A488 where further services are available. Whilst not necessarily within walking distance, both settlements are within close proximity and Pontesbury is also on the same bus route. It is therefore considered that the site is situated in a sustainable location with regard to accessibility and proximity to essential day to day services without over reliance on long journeys by private motor car.
- 6.1.8 'Sustainable development' isn't solely about accessibility and proximity to essential services but the NPPF states that it is 'about positive growth – making economic, environmental and social progress for this and future generations'. In paragraph 7 of the NPPF it states that these three dimensions give rise to the need for the planning system to perform a number of roles:
- ..an economic role - contributing to building a strong, responsive and competitive economy, by ensuring that sufficient land of the right type is available in the right places and at the right time to support growth and innovation; and by identifying and coordinating development requirements, including the provision of infrastructure;
  - ..a social role - supporting strong, vibrant and healthy communities, by providing the supply of housing required to meet the needs of present and future generations; and by creating a high quality built environment, with accessible local services that reflect the community's needs and support its health, social and cultural well-being; and
  - ..an environmental role - contributing to protecting and enhancing our natural, built and historic environment; and, as part of this, helping to improve biodiversity, use natural resources prudently, minimise waste and pollution, and mitigate and adapt to climate change including moving to a low carbon economy.
- 6.1.9 Economic role – The proposal will help boost the supply of housing in Shropshire and will provide opportunity for local employment for the construction phase of the development supporting local builders and building suppliers. The provision of 2 additional houses will in a modest way also support local businesses as future occupiers will access and use local services and facilities. The provision of more

homes will create a stimulus to the economy and address the housing shortage. The proposal will also make a financial contribution to the supply of affordable housing in addition to a CIL payment which will provide financial contributions towards infrastructure and opportunities identified in the Place Plan.

- 6.1.10 Social role - Providing housing will support and maintain existing facilities will benefit both the existing and future residents and help meet the needs of present and future generations. The 2 dwellings proposed would add a very small amount to the identified figure in SAMDev of 260 dwellings required to be provided for Minsterley and Pontesbury by 2026. It is not considered that this level of increase could be considered to be detrimental to the existing community of the village and Parish.
- 6.1.11 Environmental role – The site forms a largely rough grassed area land with no official heritage, cultural or ecological designation. The land has little ecological value with the only feature of any ecological value being the hedges, trees and planting located at its periphery. The proposal would have no adverse impact on wildlife and the ecological value of the site could potentially be improved by conditions requiring the provision of artificial bird nests. In addition the proposal would help contribute to a low carbon economy as the site is reasonably accessible to local services and facilities on foot or by cycle and by public transport to the array of services, facilities and employment opportunities in Pontesbury and Shrewsbury.
- 6.1.12 Any adverse impacts of the proposed housing development that might significantly and demonstrably outweigh the benefits, when assessed against the policies in the NPPF taken as a whole will be discussed in the following paragraphs below.

## **6.2 Affordable Housing**

- 6.2.1 Policy CS11 of the Core Strategy requires an appropriate contribution to made local needs affordable housing, in the form of a financial contribution towards off site provision. The level of contribution would need to accord with the requirements of the SPD Type and Affordability of Housing and will be set at the prevailing housing target rate at the time of Reserved Matters application. The applicants have agreed to make the necessary contribution in accordance with the requirements of the Type and Affordability of Housing SPD.
- 6.2.2 Officers note the recent Ministerial statement and amendments to the National Planning Practice Guidance as a material consideration in determining a planning application. However, following a subsequent decision by the Cabinet of the Council, the Council continues to give full weight to Policy CS11 of the adopted Core Strategy and Type and Affordability of Housing SPD and continues to seek on site provision of affordable housing and/or developer contributions to the provision of affordable housing in relation to all sites (please see the public statement of the Council 'as published on the website 30/01/15' – or 'attached as appendix').

6.2.3 Given the above, it is recommended that planning permission be granted only subject to the satisfactory completion of a legal agreement to secure the provision of affordable housing in accordance with the terms of the policy. Non compliance with the requirements of adopted Core Strategy Policy CS11 would mean that the proposal would be in clear conflict with the aims and requirements of the Development Plan and should therefore be refused, unless other material considerations indicate otherwise.

### **6.3 Siting, scale and design of structure**

6.3.1 The application site lies in effect to the rear of a larger site that has already received outline planning permission for residential development which stretches up to a frontage with the A488 at the entrance to the village. The two dwellings proposed, a detached house and detached bungalow, would be accessed via a roadway shown to run up to the A488 that will be shared with the 16 residential properties now also shown to be built as part of the submitted reserved matters application (15/0809/REM) for the adjacent site. It is considered that the addition of these two dwellings at the rear of what will be a residential cul-de-sac would appear to be an appropriate infilling of the end section of the cul-de-sac in visual terms, with the properties being viewed in context with the adjacent development. The proposed design of the house and bungalow proposed will reflect that of the adjacent proposed dwellings and the proposed materials are considered to be acceptable.

### **6.4 Drainage and Flooding**

6.4.1 Minsterley Parish Council has stated that the site is in an area prone to flooding as part of their objection to the application. The application site lies outside of any identified flood risk areas by the Environment Agency (Flood Zone 1) and as such a Flood Risk Assessment has not been requested. The Council's Drainage Engineers have not raised any objections to the application and have suggested that details of the proposed surface water drainage and ground water management for the dwellings be conditioned to minimise any flood risk, as well as a 3 metre wide easement be kept open alongside the adjacent brook.

### **6.5 Highway Safety/Site Access**

6.5.1 Access to the proposed development will be taken from the A488 and will be shared with the adjacent proposed development for 16 dwellings (Ref 15/00809/REM). The submitted details for the design of this access have been included in the reserved matters application.

6.5.2 The Council's Highways Officer has made no objections to the proposal and notes that the proposed design of the access onto the A488 that is shown on the current reserved matters application is acceptable for use by an additional two dwellings. , The Highways Officer is satisfied that the proposed visibility splays are adequate for the road conditions in this area and that off street parking arrangements for each dwelling, providing at least two parking spaces is acceptable.



## 6.6 Ecology/Trees

- 6.6.1 The NPPF and policy CS17 of the Shropshire Core Strategy require consideration to be given to the potential impact of a development on the natural environment. The Council's Planning Ecologist has assessed the application and is satisfied that the proposal can be provided without harm to any statutorily protected species or habitats.
- 6.6.2 The Council's Tree & Landscape Officer is satisfied that the submitted tree report is acceptable subject to conditions.

## 7.0 CONCLUSION

- 7.1 It is appreciated that approving this development would be contrary to the SAMDev allocation for the village of Minsterley. However a priority of the NPPF is to boost housing supply and to approve sustainable development in appropriate locations provided there are no adverse impacts of doing so. It is considered that the site is of a sufficient size to accommodate the proposed number of dwellings and would not result in an unacceptable form of development immediately adjacent to the village. The proposal would have no adverse drainage, flooding or environmental/ecological implications and would not impact on highway safety.
- 7.2 The existing infrastructure is sufficient to support the proposed development and the proposal will provide housing and will be liable for the required CIL payment. It is considered that Minsterley is a sustainable location for a limited number of new houses due to its range of essential services and facilities with good access to all essential services and facilities without over reliance or long journeys by private motor car. It is considered that the proposal represents sustainable development that will contribute to providing a balance of available housing and would help support facilities and services in this and neighbouring towns and villages and therefore promote '*strong, vibrant and healthy communities*'. It is therefore recommended this application be granted planning permission in line with clear guidance within the NPPF. Permission, if granted, should be subject to the completion of a S106 Agreement to secure payment towards the provision of affordable housing in accordance with the Councils adopted policy.

## 8.0 Risk Assessment and Opportunities Appraisal

### 8.1 Risk Management

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

- ② 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.
- ② 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:  
NPPF

Core Strategy and Saved Policies:  
CS4, CS6, CS9, CS11, CS17

RELEVANT PLANNING HISTORY:

-

11. Additional Information

View details online:

List of Background Papers (This MUST be completed for all reports, but does not include items containing exempt or confidential information) See planning file 15/00808/FUL
Cabinet Member (Portfolio Holder) Cllr M. Price
Local Member Cllr Tudor Bebb
Appendices APPENDIX 1 - Conditions

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

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

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

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

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

3. The external materials and their colour shall be as shown on the deposited plans.

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

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

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

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

b) No works associated with the development permitted will commence and no equipment, machinery or materials will be brought onto the site for the purposes of said development until a Tree Protection Plan and Arboricultural Method Statement prepared in accordance with and meeting the minimum tree protection requirements recommended in BS5837: 2012 or its current equivalent have been submitted and approved in writing by the Local Planning Authority. All tree protection measures detailed in the approved Tree Protection Plan and Arboricultural Method Statement must be fully implemented as approved before any equipment, machinery or materials are brought onto the site for the purposes of the development. All approved tree protection measures must be maintained throughout the development until all equipment, machinery and surplus materials have been removed from the site. Nothing shall be stored or placed in any area fenced in accordance with this condition and the ground

levels within those areas shall not be altered nor any excavation be made, without the prior written consent of the Local Planning Authority.

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

d) No works associated with the development permitted will commence and no equipment, machinery or materials will be brought onto the site for the purposes of said development until a responsible person has been appointed for day to day supervision of the site and to ensure that the tree protection measures are fully complied with. The Local Planning Authority will be informed of the identity of said person.

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.

5. No development shall take place until a scheme of surface water drainage has been submitted to, and approved by the Local Planning Authority. The approved scheme shall be completed before the development is occupied.

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

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

6. 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**

7. No development shall take place within 3 metres of the brook which runs alongside the north western boundary of the site.

Reason: To ensure access to the brook is maintained for maintenance purposes and not to cause any obstructions of the flow of the brook.

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

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

9. No burning shall take place on site including during clearance of the site.

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

### **Informatives**

1. 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.
2. Where there are pre commencement conditions that require the submission of information for approval prior to development commencing at least 21 days notice is required to enable proper consideration to be given.
3. Your attention is specifically drawn to the conditions above that require the Local Planning Authority's approval of materials, details, information, drawings etc. In accordance with Article 21 of the Town & Country Planning (Development Management Procedure) Order 2010 a fee is required to be paid to the Local Planning Authority for requests to discharge conditions. Requests are to be made on forms available from [www.planningportal.gov.uk](http://www.planningportal.gov.uk) or from the Local Planning Authority. The fee required is £97 per request, and £28 for existing residential properties.

Failure to discharge pre-start conditions will result in a contravention of the terms of this permission; any commencement may be unlawful and the Local Planning Authority may consequently take enforcement action.

4. THIS PERMISSION DOES NOT CONVEY A BUILDING REGULATIONS APPROVAL under the Building Regulations 2010. The works may also require Building Regulations approval. If you have not already done so, you should contact the Council's Building Control Section on 01743 252430 or 01743 252440.
5. The formation of or alteration of an access apron will require works to cross the highway verge, the applicant or their contractor will require a 'Licence to work on the highway' prior to commencing. Please advise the applicant that details of this, the fee charged and the specification for the works is available on the Council's website.
6. Ordinary Watercourse Consent is required from Shropshire Council for any works within the channel of the watercourse that will obstruct/ affect the flow of the watercourse including temporary works. Ordinary Watercourse Consent Application Form and Guidance Notes are on the Council's website: [www.shropshire.gov.uk/flooding](http://www.shropshire.gov.uk/flooding)  
Reason: To ensure that it complies with the Land Drainage Act 1991
7. Consent is required from the service provider to connect into the foul main sewer.
8. 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.

9. Any external lighting should be designed to take into account the advice on lighting set out in the Bat Conservation Trust booklet *Bats and Lighting in the UK* in order to minimise disturbance to bats, a European Protected Species. Special consideration should be made to minimise the impact lighting would have on any bats. Lighting should not shine on potential ecological corridors and should be in line with the advice available in the Bat Conservation Trust booklet *Bats and Lighting in the UK*.
10. 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). Any trees within the hedgerows may have potential for roosting bats. If these trees are to be removed then an assessment and survey for roosting bats must be undertaken by an experienced, licensed bat ecologist in line with The Bat Conservation Trusts *Bat Surveys Good Practice Guidelines* prior to any tree surgery work being undertaken on these trees. If a bat should be discovered on site at any point during the development then work must halt and Natural England should be contacted for advice.
11. In order to make the properties ready for electric vehicles, charging point installation isolation switches must be connected so that a vehicle may be charged where off road parking is provided. The following condition is therefore proposed should this application be granted approval:  
An independent 32 amp radial circuit isolation switch must be supplied at each property for the purpose of future proofing the installation of an electric vehicle charging point. The charging point must comply with BS7671. A standard 3 pin, 13 amp external socket will be required. The socket should comply with BS1363, and must be provided with a locking weatherproof cover if located externally to the building.  
Reason: Paragraph 35 of the NPPF states; "Plans should protect and exploit opportunities for the use of sustainable transport modes for the movement of goods and people. Therefore, developments should be located and designed where practical to, amongst other things, incorporate facilities for charging plug-in and other ultra-low emission vehicles."

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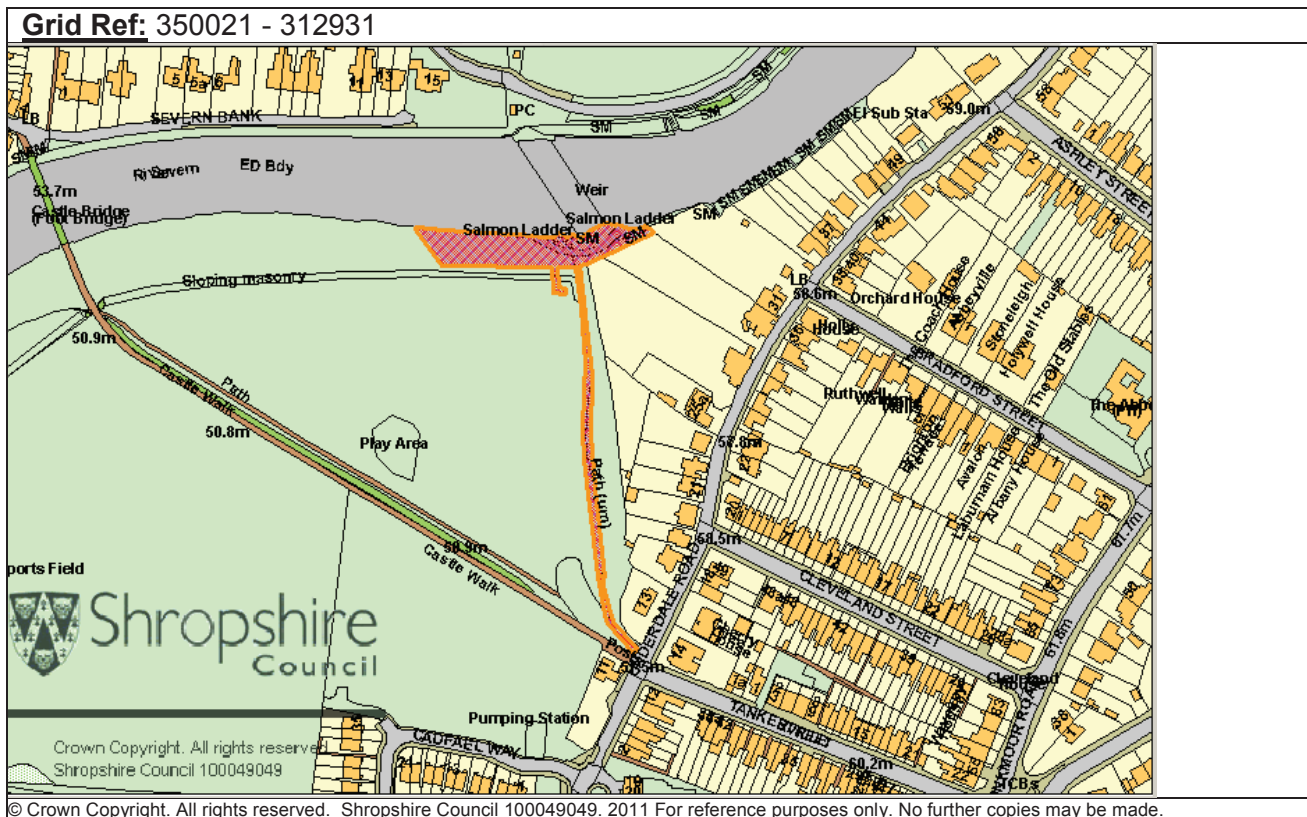
Committee and date  
 Central Planning Committee  
 18 June 2015

## Development Management Report

Responsible Officer: Tim Rogers  
 email: [tim.rogers@shropshire.gov.uk](mailto:tim.rogers@shropshire.gov.uk) Tel: 01743 258773 Fax: 01743 252619

### Summary of Application

<b>Application Number:</b> 15/01395/FUL	<b>Parish:</b>	Shrewsbury Town Council
<b>Proposal:</b> Installation of an underground water turbine alongside the Shrewsbury Weir to generate hydroelectricity from the River Severn and to demolish the existing fish pass and replace it with a new fish pass, fish bywash and debris channel; removal of 7No trees		
<b>Site Address:</b> Shrewsbury Weir Adj Underdale Road Shrewsbury Shropshire		
<b>Applicant:</b> Shrewsbury Hydro Ltd		
<b>Case Officer:</b> Kelvin Hall		<b>email:</b> <a href="mailto:planningdmc@shropshire.gov.uk">planningdmc@shropshire.gov.uk</a>



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

## REPORT

### 1.0 THE PROPOSAL

- 1.1 The planning application is for the construction of an underground water turbine adjacent to the Shrewsbury Weir to generate hydroelectricity. The proposed development would include a below-ground turbine house containing the water turbine and other equipment; a new fish pass to replace the existing fish pass; a fish bywash and debris channel. A stone-clad building would provide access to the turbine room. This would have an octagonal shape with a conical roof, and measure 3.2 metres to crenellations, 3.9 metres to apex and 2.4 metres wide. A substation would be provided, set back from the turbine by a few metres. This would replace the existing electrical control box on the same site which is associated with the fish pass. The substation would measure 3.1 metres x 2,8 metres x 3,4 metres high. Other elements of the proposed development include the installation of 1.1 metre high railings around the turbine.
- 1.2 The turbine would be expected to generate approximately 1.7 million kWh of electricity per year which would be exported to the National Grid.

### 2.0 SITE LOCATION/DESCRIPTION

- 2.1 The turbine would be constructed at the southern side of the River Severn, adjacent to the existing weir in the Castlefields area of Shrewsbury. The overall site area is approximately 0.4 hectare, with the turbine and associated structures occupying an area of ground measuring approximately 90 metres x 15 metres.
- 2.2 To the southwest is Castle Walk, an informal recreation area including grassland and woodland. At the southwestern end of Castle Walk is a children's play area, beyond which is a path and cycle path which runs between a footbridge over the river and the Underdale Road to the south. Access to the site, for construction and ongoing maintenance, would be from Underdale Road, via an existing track which runs along the eastern side of the Castle Walk recreation area.
- 2.3 The nearest residential properties to the site are those along Underdale Road to the southeast. The closest of these is 65 metres from the turbine; the rear garden area abuts the edge of the site. The nearest properties on the northern side of the river are approximately 100 metres away.
- 2.4 The site lies within the Shrewsbury Conservation Area. The site lies within Flood Zones 2 and 3. This part of the River Severn (Montford to Shrewsbury) is designated as a Wildlife Site. The Castle Walk area is a former landfill site. The northern extent of this is at the point where the land slopes down towards a level area adjacent to the river..

### 3.0 REASON FOR COMMITTEE DETERMINATION OF APPLICATION

- 3.1 A decision by Planning Committee is required as part of the application site is owned by Shropshire Council and the proposal is not in line with the Council's statutory functions. Additionally the Local Member has requested that the application is

decided by Planning Committee, and this has been agreed by the Chairman in consultation with the Principal Planning Officer.

#### 4.0 **COMMUNITY REPRESENTATIONS**

##### 4.1 **Consultee Comments**

4.1.1 **Shrewsbury Town Council** Supports in principle. It should be noted that the Town Council owns part of the land on which this application is to be based and any comments made by the Town Council should not be construed as a tacit permission to proceed with development on their land. Members are of the view that this application has such prominence in the town and in the heart of the Conservation Area that it should not be considered under Officer Delegation, but by the Planning Committee. The Town Council is supportive of the principle of developing a hydro-scheme at the Weir, however the devil in the detail of this application will determine the success of such a scheme. In particular members would wish to see greater detail on the impact on Castlewalk as a valuable amenity area. Further detail should be submitted in terms of the design proposals for the hard infrastructure and in particular its impact from the adjacent river bank. Members also remain cautious about the loss of very mature trees and the impact of such on the visual amenity of the area. Replanting areas should also be reconsidered particularly in view of the former use of Castlewalk as a tip and the need not to break the protective capping over the area

4.1.2 **Environment Agency** No objections.

Environment Agency Permits: In addition to any planning permission, hydropower schemes require a number of permits and consents, including water resource license(s) (abstraction and/or impoundment), flood defence consent (including temporary works consent) and fish pass approval. We also have a regulatory duty to ensure that schemes are in compliance with environmental regulations such as the: Water Framework Directive - the freedom of movement of fish, upstream or downstream, is an important component of achieving or maintaining good ecological status; and Salmon and Freshwater Fisheries Act (1975) – we are required to maintain, improve and develop all freshwater fisheries, and to ensure the free passage of migratory salmon and sea trout.

An application for an Environmental Permit (EP) for the scheme has been received and is currently being reviewed.

Flood Risk: The site is located within Flood Zone 3 of the River Severn, based on our 'indicative' Flood Map for Planning (Rivers and Sea). This zone comprises of land assessed as having a 1 in 100 year or greater annual probability of river flooding (>1%). The FRA has utilised data from your Council's Level 2 Strategic Flood Risk Assessment (SFRA) for Shrewsbury and an updated model produced by Atkins in 2012, including cross sections. The baseline model is considered to be in accordance with our own levels and flood extent outlines in this location. We note the FRA has used the baseline model to determine impacts on flood risk (levels) post development, including the loss of flood storage associated with the proposed powerhouse. The FRA demonstrates a small reduction in flood levels and in

consideration of the expected tolerances from the modelling technique used, the development is unlikely to impact on flood risk.

The FRA has not referred to the impact on flood flow routes as a result of the proposed powerhouse. However, based on the topography of the area, this is considered unlikely to have a significant effect.

The development may be at risk of flooding and it is advised that any flood susceptible equipment is sited 600mm above the 1% plus climate change flood level (or nominal level) or flood proofing is considered, in the interest of the applicant's operational issues and of course safety. Given the nature of this type of proposal, we would advise that safe access is considered as a less critical risk i.e. the proposed development may not be accessible in design flood events.

#### Biodiversity:

##### *Fisheries*

The proposals include the replacement of the existing fish pass on site. Under the Salmon and Freshwater Fisheries Act (1975), any new fish pass will require Fish Pass Approval, in addition to any planning permission. For completeness, the design of the proposed fish pass is being considered by the Agency's National Fish Pass Panel as part of the current EP application. The type and design of the fish pass proposed is considered generally acceptable.

As part of our consideration of the Flood Defence Consent, including the temporary works consent, we are likely to require an assessment of the impact on fish passage (fisheries) during the construction phase to help inform any necessary mitigation measures required. These should be appropriate to maintain the free passage of migratory salmon and any other relevant protected fish species.

##### *Hydrogeomorphology*

We have received the Hydromorphological and Geomorphological Investigation Reports as part of the EP application. Whilst these reports have not been submitted as part of the planning application, the Environmental Report submitted summaries the investigations undertaken and without prejudice to the EP, we do not foresee any significant cause for concern at this time.

##### *Biodiversity*

Protected species are a material consideration and any impacts on them must be established, and mitigation (for protection and enhancement of such) agreed. A superficial wildlife survey of Shrewsbury weir was undertaken in 2012 (Wildlife Service's Protected Species Survey Report, May 2012), as referenced within the Environmental Report. The Report found no evidence of any protected species in the areas surveyed, although several trees located on the boundary of the proposed development site were noted as having potential for roosting bats and nesting birds. However, the area is designated as a Local Wildlife Site, in recognition of the importance of the area as a wildlife corridor.

The proposals include the removal of 7no. trees, which will be replaced by 12no. new trees. Your Council, in discussion with Natural England may wish to secure the provision of bat boxes, to help mitigate any potential loss of bat roosting habitat.

Notwithstanding the above, our records indicate that otters have been seen along the River Severn in this location but we are not aware that there are otter holts present at this time. For completeness, otters and their resting sites are protected by the Wildlife and Countryside Act 1981 and the Conservation of Habitats and Species Regulations 2010. It is unlikely that the development will have significant impacts on otters, however, Natural England's standing advice should be referred to and no obstacles are located on the banks which may impede otter movements along the river and no artificial lighting shall be used between dusk and dawn.

Water Framework Directive: The proposed development site is located within a catchment classified as a 'moderate' waterbody. Any development should not cause any deterioration in water quality or hamper efforts to improve waterbody status to 'good' by 2027 and should provide opportunities to meet the good status objective. Policy CS18: Sustainable Water Management of your Council's adopted Core Strategy (March, 2011) outlines '*wherever possible, new development contributes to achieving these objectives, by protecting and enhancing water quality within Shropshire*'.

Pollution Prevention: Developers should incorporate pollution prevention measures to protect ground and surface water. The construction phase in particular has the potential to cause pollution. Site operators should ensure that measures are in place so that there is no possibility of contaminated water entering and polluting surface or ground waters. No building material or rubbish must find its way into the watercourse. No rainwater contaminated with silt/soil from disturbed ground during construction should drain to the surface water sewer or watercourse without sufficient settlement. Any fuels and/or chemicals used on site should be stored on hardstanding in bunded tanks.

- 4.1.3 **Natural England** No specific comments to make. The application does not pose any likely or significant risk to those features of the natural environment for which we would otherwise provide a more detailed consultation response.

The lack of case specific comment from Natural England should not be interpreted as a statement that there are no impacts on the natural environment. Other bodies and individuals may make comments that will help the Local Planning Authority (LPA) to fully take account of the environmental value of this site in the decision making process.

In particular, we would expect the LPA to assess and consider the possible impacts resulting from this proposal on the following when determining this application.

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.

Local wildlife sites: If the proposal site is on or adjacent to a local wildlife site, eg Site of Nature Conservation Importance (SNCI) or Local Nature Reserve (LNR) the authority should ensure it has sufficient information to fully understand the impact of

the proposal on the local wildlife site, and the importance of this in relation to development plan policies, before it determines the application.

Biodiversity enhancements: This application may provide opportunities to incorporate features into the design which are beneficial to wildlife, such as the incorporation of roosting opportunities for bats or the installation of bird nest boxes. The authority should consider securing measures to enhance the biodiversity of the site from the applicant, if it is minded to grant permission for this application, in accordance with Paragraph 118 of the NPPF.

Landscape enhancements: This application may provide opportunities to enhance the character and local distinctiveness of the surrounding natural and built environment; use natural resources more sustainably; and bring benefits for the local community, for example through green space provision and access to and contact with nature. Landscape characterisation and townscape assessments, and associated sensitivity and capacity assessments provide tools for planners and developers to consider new development and ensure that it makes a positive contribution in terms of design, form and location, to the character and functions of the landscape and avoids any unacceptable impacts.

- 4.1.4 **SC Drainage** No specific comments. The River Severn is a Main River. Consent is required from the Environment Agency for the works which are within the channel of the river / 8m from the bank of the river.
- 4.1.5 **SC Public Protection** No objections. Notes that the noise generating equipment will all be beneath ground. In relation to noise a combination of existing noise and distance to nearest residential properties gives confidence that no noise issues will be likely should this application be granted approval.

The proposed development site is adjacent to the former Castle Walk Landfill site. This landfill was in operation from approximately 1957-69 and the sloping masonry wall running parallel to the River Severn marks its most northern extent. The absence of landfill material in any of the boreholes located between the site and the river confirmed this. In 2004 a detailed site investigation and risk assessment of the Castle Walk Landfill was carried out on behalf of the former Shrewsbury & Atcham Borough Council. The results of the groundwater sampling and preliminary modelling indicated that the landfill is acting as a source of contamination. Public Protection routinely carries out monitoring to check contaminant levels leaving the site and ensure that the situation remains stable. It does this by sampling through boreholes.

One of the above mentioned boreholes is located in the area of the proposed turbine house and would be lost as a result of the development. Public Protection would require the developer to replace this borehole the same specification as originally installed at no cost to the Council and it is therefore recommended that a condition is imposed to require a borehole to be installed to a specification and location approved by the local planning authority (see Appendix 1).

The landfill site is still generating elevated levels of landfill gas and carbon dioxide was recorded at the time of the 2004 investigation attributed to the landfill with the possibility of some being produced by natural sediment deposits. The turbine house

will be below ground and therefore there are potential risks to construction workers from exposure to asphyxiates and flammable gases, contaminated soils and groundwater during construction and also to users/visitors of the site post development when entering a below ground confined space. Planning Policy requires a developer to undertake risk assessments sufficient to demonstrate to the local planning authority that any proposals adequately mitigate any potential hazards associated with ground contamination, including gas. A condition should be imposed to require the submission of a Site Investigation Report, and provision for remediation in the event that the site is found to be contaminated (see Appendix 1).

#### 4.1.6 **SC Ecologist** Recommends conditions and informatives.

Protected sites: The development would be within the River Severn (Montford – Shrewsbury) Local Wildlife Site. Shropshire Wildlife Trust have provided comments and consider that the scheme should be amended to ensure that the walls to be introduced on the river bank do not present a barrier to movement of species such as otter and suggest installing gabions as one option. Subject to this they have no objection to the scheme in relation to the Local Wildlife Site.

Invasive species: The application site contains frequent Himalayan Balsam. This species is classified as an invasive species and is included within The Wildlife and Countryside Act 1981 (Variation of Schedule 9) (England and Wales) (Statutory Instruments 2010 No. 609). This makes it an offence to release, allow it to escape, plant or cause it to grow in the wild. Shropshire Wildlife Surveys (2012) provide Environment Agency guidelines on developing on ground with this plant.

Manual or non-chemical control is preferred on the banks of the River Severn Local Wildlife Site. Regulations restrict use of herbicides adjacent to watercourses and the Environment Agency can advise on this. Further information can be found here: <https://www.gov.uk/prevent-the-spread-of-harmful-invasive-and-non-native-plants>

Snowberry was also recorded in 2012 and is also invasive, although not included in the Wildlife and Countryside Act. This species should also be removed in a controlled manner to prevent spread.

An informative should be added to any decision notice in respect of Himalayan Balsam (see Appendix 1).

Otter: Shropshire Wildlife Surveys visited the site on February and May 2012 and reported no evidence of otters. Otters have been seen throughout the River Severn through Shrewsbury. The Council's Ecologist visited the site in April 2015 and saw no otter holts visible on the application site. This location is open to public access and dog walkers, which is likely to dissuade otters from creating a holt here. The Conservation of Habitats and Species Regulations (2010) protect (amongst other things) breeding sites and 'resting or sheltering places' of otters, but not their wider habitats. Otters have a large territory, with about 18km being a typical length, therefore as the Environment Agency state, the scheme is unlikely to have significant impacts on otters.

The Council's Ecology team concur with the Environment Agency view that no obstacles should be located on the banks which may impede otter movements along the river. Alterations to the scheme have been submitted to allow otters to come ashore. A condition is recommended requiring details of this to be submitted prior to commencing works (see Appendix 1).

Bats: Shropshire Wildlife Surveys (2012) assessed the potential for trees within and beyond the application site boundary to contain bat roosts. The Tree Survey reports that the proposal would involve the removal of 7 trees. The trees being removed are weeping willow, crack willow, ash and an alder. The ecologist reports one damaged willow tree on the eastern boundary of the works with potential for episodic use by bats. This is not shown for removal, however it is recommended that a suitably licenced ecologist inspects the trees again prior to removal to check for evidence of bats and appropriate precautions to protect bats taken if necessary.

The river corridor will be an important bat foraging and commuting route. The increase in number of trees will provide a long term gain to this function. It will be important not to introduce lighting in this area to avoid affecting its use by bats. The recommendation to introduce bat boxes as compensation is welcomed and a condition relating to external lighting is recommended (see Appendix 1).

Nesting birds: Although no bird nests were recorded in the 2012 survey it is quite likely that birds could nest in the trees to be removed. It is recommended that the tree works are carried out between September and February inclusive and bird boxes are installed to compensate for the (temporary) loss of nesting sites. It is requested that consideration should be made for inclusion of an artificial kingfisher nest tunnel in the scheme. A condition requiring provision of artificial nests is recommended (see Appendix 1).

Environmental Permit issues including fish: The Environment Agency has received an Environmental Permit application. This application includes consideration of migratory salmon and other relevant protected fish species, including design of the fish pass therefore no comments are provided on these matters. As requested by the Environment Agency, conditions should control pollution. These should ensure that there is no possibility of contaminated water entering and polluting surface or ground waters.

- 4.1.7 **SC Trees** No objections, following receipt of amendments to the proposed tree planting scheme (drawing 1001 rev. 5 dated 27.05.2015), subject to a condition requiring the implementation of the tree protection measures set out in the submitted Tree Survey report (see Appendix 1 for condition). Some of the trees to be removed are mature specimens. The tree cover will initially be eroded by the loss of these trees although mitigation in the form of well-placed replanting scheme could lead to a long term improvement in the age, diversity and structure of the riverside trees.
- 4.1.8 **SC Highways** No objections in principle, however no details have been supplied regarding the access to the facility other than outline information contained in the Design & Access Statement, which indicates that access will be via the existing track through the recreation ground. Whilst there is no issue with the principle of this access being used, a suitable surface will be required depending upon the level of



usage and the type of vehicles required to access the site. Due to the nature of this facility, it is understood that there will be high volume of large vehicle movements to the site during the construction of the project, but once completed the number of vehicles required to access the site for on going operations and maintenance should be low and infrequent.

Discussions will need to be held regarding the routing of construction traffic to the site due to a number of local constraints. It is considered that issues surrounding access can be resolved at a more advanced stage of the project and therefore a condition is recommended to deal with access and construction management (see Appendix 1).

- 4.1.9 **SC Rights of Way** No legally recorded public rights of way will be affected by the proposals.
- 4.1.10 **SC Archaeology** No comments to make.
- 4.1.11 **SC Conservation** No objections, subject to conditions. The location where the weir spans the River Severn is part of the Shrewsbury Conservation Area, with the south easterly bank and associated lands within the 'Underdale Road Special Character Area' and the north bank and associated lands being part of the 'Castlefields and Spring Gardens Special Character Area'. There are no listed buildings within the immediate vicinity of the weir however the weir is a visual feature within immediate and wider views and vistas from both sides of the river within the Conservation Area.

Principles of Scheme: There is no objection in principle to the proposal as it would appear from the photomontage and site plan that the proposed facility would likely not further disrupt the character and appearance of the Conservation Area and would generally have a neutral impact on wider views and vistas along the river. The proposed turbine hall would likely be the most visible feature and conditions should be imposed in terms of its detailed design and external materials to ensure it and any other built features harmonise with the surrounding environment.

Recommendation: No objections raised in terms of historic environment matters, subject to the comment on detail noted above, and the inclusion of the following conditions: C1 and C2 (External materials), and D3 (Enclosures re proposed gates and railings, including their decorative finish).

- 4.1.12 **Shropshire Wildlife Trust**  
Shropshire Wildlife Trust believes that climate change poses a significant threat to our biodiversity and so supports appropriate renewable energy generation schemes.

The proposed installation of an underground water turbine alongside the Shrewsbury Weir has a number of potential ecological impacts.

Construction impacts

There is scope during construction for contamination or pollution to occur; pollution prevention guidelines must be followed and Environment Agency consent obtained.

- Modifications to water flow affecting fish and eel movements.

We understand that a new fish pass of an improved design will be incorporated into the scheme and that this has been designed to latest Environment Agency guidance to accommodate a range of fish species and eels. The need for fish pass approval and the legal requirements preventing barriers to eel movement should ensure there are no adverse impacts to these species and if anything the current situation is improved.

- Tree removal

We are satisfied that the trees lost to the development will be replaced by a greater number of appropriate native tree species and there is unlikely to be a long term ecological impact. We would however recommend that care is taken in selecting and sourcing tree species to ensure those most appropriate to the setting are chosen and that the chance of introducing any disease or pests is removed.

To ensure that the ecological value of the site is maintained, and to potentially provide ecological enhancement, we would recommend a series of bat boxes are installed as per the ecological report.

- Disrupting species movement along river banks.

The construction of walls along the southern bank has the potential to affect the movement of species such as otter who are known to feed and travel along this stretch of the River Severn. The fish pass and bywash have the capacity to allow otter movements. The inclusion of gabions to facilitate mammal access and enable species such as otter to access the path/bank at the top of the wall are welcomed. The detailed design will need to be confirmed as suitable for the species concerned, most notably otters. This could be achieved by providing gabions at a suitable slope or in a series of suitable sized steps to cover a reasonable range of water level. This matter could be covered by a condition that a detailed design should be submitted and approved prior to commencement of works. Shropshire Wildlife Trust would be happy to assist in this process if required.

The majority of the River Severn, including the application site, is designated as 'Local Wildlife Site' and a 'Core Area' in Shropshire Environmental Network. Planning policy therefore requires that protection and enhancement measures are incorporated into the scheme.

Subject to otter movement being unimpeded (via installation of gabions or other amendment to the scheme) and the ecological protection and enhancement measures being agreed, Shropshire Wildlife Trust has no objection.

- 4.1.13 **Shrewsbury Friends of the Earth** Supports the application. Careful consideration has been given to the design and the construction required. This scheme improves the existing fish pass without damage to the weir and will provide a valuable contribution to the renewable energy mix of Shropshire. It is important to develop low carbon energy production in order to combat the threat of climate change. Many small scale hydro schemes are being installed across the UK and using the River Severn to generate electricity in this way is a good idea.

- 4.1.14 **South Shropshire Green Party** Supports the application. Small scale hydroelectricity projects are essential to meet the renewable energy targets that are essential if global warming is to be seriously tackled. We want to see a reduction in greenhouse gasses of 90% by 2030. This is a responsible, carefully planned project that is important not only in the provision of renewable energy, but as an example of good practice for others to emulate. Small scale and community projects will make a significant contribution to short and medium term energy provision, and should have the full support of the Council.
- 4.1.14 **Shropshire Anglers Federation** [Comments made by Chairman of the SAF, managing agent for Shrewsbury Council and Shropshire Council for Council-owned waters portfolio of river and pool]:
- Proposal may create irreversible ecological issues that have not been addressed fully
  - No assessment or notice of temporary fish pass whilst under construction has been undertaken or reported. Although referred to in mitigation that the “old fish pass” would be utilised during this period. No consultative evidence is offered of the ability of this old fish pass as in cost of regeneration or most importantly functionality of the pass for temporary usage
  - No reference to the displacement of the Otter Holt which has existed for the last two years, has been addressed; set is less than twenty five yards from the mouth of the existing Underdale side fish pass; it is my understanding legislation prohibits such interference
  - Weir Pool flow will be altered and render Weir Pool Sydney Avenue side to reduced function in regard to salmon fishing with financial implications to SAF and council alike. This mitigation is supported by the APEM consultative and other reports similar in nature
  - Local resident share capital minimum needed 1.3 million to 2.3 million required. Commercial share capital should not be entertained. Neither should share capital funding be attained beyond the confines of the Shrewsbury Borough as the project is intended and implied as a community enterprise
  - As Weir flow will be side tracked into hydro unit, the ecological fall out will be immense. Sweden has had Hydro Power for 40 years and due to the ecological disaster, now spending a fortune removing all and any such units. The Weir in function is already in “in-balance” highlighted in the APEM report demonstrating a high proportion of flow deep into the Sydney Avenue elevation, even at a Q50 flow clearly demonstrated. To reduce functionality flow further to the turbine will render little or no water flow on the Weir crest from centre point to the Underdale side
  - Will result in damage to the immediate ecology and to migratory salmon or coarse from holding in the Weir Pool due to severe reduction in oxygen generation of Weir toe and flow
  - In “summer level” extreme low water conditions, fish stocks will not have the previously availed haven to hold in the Weir Pool. Attempting to obtain extra oxygen that has been depleted due to water level and water temperature, very much a requirement in late summer for the purpose of spawning recovery
  - Reduced river flow over the Weir will result in further silting of this section of river, adversely affecting “river flood prevention measures” and the immediate foundation of the Sydney Avenue catchment of stone, pebble and gravel. Without question a prime spawning ground for all coarse fish and holding water for migratory species. River flow in this section as a whole will be that of reduced

- oxygen level, silting of gravels due to altered flow pattern, creating new bank erosion sites along the immediate river bank
- No assessment of the effect and consequence of the Electricity feasibility study, or how both Shrewsbury Hydro and the Electricity Grid Power achieve completion on the same site, working on the same underground levels
- Concern raised regarding construction of horizontal boreholes under the Weir as part of electricity supply
- Impact on local residents, ecology, wildlife and fish movement due to magnetic fields created from electricity supply projects
- Concern over impact on river flow at the toe of the Weir in flood conditions
- Uncertainty regarding bank erosion on the left bank downstream of the Weir
- Query whether the existing fisherman's walk to the beach downstream will be reinforced / rebuilt / replaced
- Embankment between the river and roadway of Sydney Avenue will come under increased pressure of erosion due to the change in river flow

## 4.2 **Public Comments**

4.2.1 The application has been advertised by site notice and in the local press. In addition 31 residential properties in the local area have been individually notified. Nine objections have been received, and 27 letters of support and one general comment have been received.

4.2.2 Objections have been made on the following grounds:

### Environmental

- Extending the white water by 14 metres on a slack water side of the river is an environmental disaster
- boaters and wildlife have no way of ascending the weir
- impact on otters, mink, ducks, and swans, from loss of corridor, especially when the young have been swept over the weir
- impact on buzzards, woodpeckers
- loss of mature woodland trees and bat roost
- concrete monstrosity will be a blot on the landscape, a blight on a conservation area and beauty spot
- large volume of excavation required
- construction traffic will blight the park with potential safety issues for children and animals
- construction noise, particularly if involves driven piles
- operational noise
- loss of riverbank access and amenity
- flooding area likely to increase due to faster flow and narrower river width
- disruption to residential area
- will result in reduced dissolved oxygen levels below the weir, which will reduce all marine life in the river
- huge concrete walls are ugly
- concern that the generator could become a visitor centre, and will need parking and amenities such as washrooms
- new substation is immense in comparison with the existing small box, will be very intrusive

#### Private property

- Development encroaches onto private land
- impact on easement of water and right of way by foot and boat, and mooring and fishing rights
- loss of entitlement of enjoyment of our land and possessions.

#### Technical

- public safety, and health and safety, concerns
- queries whether vandal-proof
- any overground cables necessary would be an eyesore
- photovoltaic cells or a series of mini water wheels could be guaranteed to match the project output
- project has a heavy carbon footprint with cement production and transportation unlikely to be offset by the electrical output
- solar panels would be more practical

#### Viability

- queries over financial viability of project
- concern that project may be left unfinished if finances not secured in advance
- queries on plans to restore the site should the scheme prove uneconomic to maintain or repair
- query whether climate change has been taken into account in power estimation calculations, with increased drought or high flow periods
- would create negligible amounts of power

#### 4.2.3 The reasons for support are:

- Castlefields Weir is unique as the only current structure suitable for hydroelectric generation on the Severn in Shropshire
- Proposal for community-led and community-owned turbine is a very welcome initiative
- Hydroelectric is a very valuable source of low-carbon electricity and a key part of the renewables mix, essential to enhancing energy security
- Proposal chimes with both local and national planning policy
- Proposal will minimise impacts on ecology, hydrology and visual amenity
- Will be an attractive feature
- Will enhance interest for visitors, educational groups and public
- Will produce significant amounts of renewable energy for much longer than a wind turbine or PV system
- Will have community benefit spin offs
- Disruption during construction will be short lived
- Tree replanting can screen the inconspicuous structure
- Low level stone clad construction is more attractive than the current dull concrete slope
- Will provide an improved fish pass
- Proposal would marginally reduce the risk of flooding
- Proposal conforms with the Shropshire Community Strategy, the tourism strategy and the Marches LEP Strategy for Growth

The general comment:

- Questions over financial viability of project

Further details required over environmental impact, construction logistics (noise, duration, disruption etc.) and operation (noise, maintenance, and functioning during high and low river flows)

## 5.0 THE MAIN ISSUES

- Principle of development
- Siting, scale and design; impact on Conservation Area
- Water environment and flood risk considerations
- Local amenity considerations
- Ecological considerations
- Pollution considerations
- Highways, traffic and construction considerations

## 6.0 OFFICER APPRAISAL

### 6.1 Principle of development

6.1.1 One of the core planning principles set out in the National Planning Policy Framework (NPPF) is to support the transition to a low carbon future. This includes encouraging the use of renewable resources. Planning Practice Guidance on Renewable and low carbon energy sets out the particular planning considerations that apply to hydropower proposals (see Section 10.2 below) and states that increasing the amount of energy from renewable and low carbon technologies will help to make sure the UK has a secure energy supply, reduce greenhouse gas emissions to slow down climate change and stimulate investment in new jobs and businesses.

6.1.2 The Shropshire Core Strategy provides similar support by stating that the generation of energy from renewable sources should be promoted (Strategic Objective 1), and that renewable energy generation is improved where possible (Policy CS6). Core Strategy Policy CS8 positively encourages infrastructure, where this has no significant adverse impact on recognised environmental assets, that mitigates and adapts to climate change, including decentralised, low carbon and renewable energy generation, and working with network providers to ensure provision of necessary energy distribution networks.

6.1.3 A number of objections to the proposal state that the proposal would provide a negligible amount of electricity. The proposed turbine is expected to generate approximately 1.7M KWh of electricity which is equivalent to supplying approximately 406 typical households per year. The application states that this would save up to 1000 tonnes of CO<sub>2</sub> emissions each year compared to the same amount of electricity produced by a conventional power station. The NPPF states that applicants for energy development are not required to demonstrate the overall need for renewable energy, and advises that recognition should be given that even small-scale projects provide a valuable contribution to cutting greenhouse emissions.

### 6.2 Siting, scale and design; impact on Conservation Area

6.2.1 Core Strategy policy CS6 seeks to ensure that development is appropriate in scale and design taking into account local context and character, having regard to landscape character assessments and ecological strategies where appropriate. Policy CS17 also 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. The application site lies within the Conservation Area and section 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990 requires that special regard should be given to preserving or enhancing the character or appearance of the Conservation Area. In addition section 12 of the NPPF provides further advice in relation to development within Conservation Areas.

- 6.2.2 Proposed structures: The proposed turbine would be sited partly on land currently occupied by the fish pass at the southern side of the river. The principal element of the proposed development would be the turbine house, and the roof of this would be at the level of the adjacent ground. The safety railings, at 1.1 metres high, would be similar in scale to the railings around the existing fish pass. The other principal above-ground elements would be the turbine tower and the replacement electricity substation. The turbine tower would improve access to the turbine house below. It would be octagonal in shape, and clad in Grinshill stone, and it is considered that this would improve the appearance of the structure, and would be preferable than an otherwise more functional design. The proposed replacement substation would be significantly larger than the existing substation. However it would be set back from the river edge and would be sited within an area of trees and other vegetation. This, and the proposed green colour, would help to reduce its visibility when viewed from the principal public viewpoints on the northern side of the river.
- 6.2.3 Tree issues: The application proposes the removal of seven trees from adjacent to the river bank in order to facilitate the installation of the turbine. The application is supported by a Tree Survey report which identifies that five of these are of moderate quality (a weeping willow three crack willows and an ash) and two are of low quality (a small ash and a small alder). The Council's Tree Officer notes that some of these are mature specimens and that the existing tree cover would initially be eroded by the loss of these trees. However the Officer considers that the proposal to replace these with twelve trees, set slightly further back from the river bank, could lead to a long term improvement in the age, diversity and structure of the riverside trees.
- 6.2.4 The removal of seven trees would inevitably have some adverse impact on the visual character of the area, including views from the public path on the northern side of the river. However it should be noted that the wider area on the southern side of the river is well vegetated with a variety of trees along the riverbank and additional vegetation on the bank further back from the water's edge. This vegetation would be retained and the development would be seen against this backdrop. As such it is considered that this short-term impact can be accepted, considering also the longer term benefits from the replanting proposals.
- 6.2.5 The Conservation Officer has raised no objection to the proposal. The Officer considers that it would be unlikely to further disrupt the character and appearance of the Conservation Area and would generally have a neutral impact on wider views and vistas along the river. Officers have also discussed with the applicant the possibility of the railings being of a design to match those on the opposite side of the river. Details of materials, including those of the fish pass walls, can be agreed as part of planning conditions, as recommended by the Conservation Officer.

- 6.2.6 Overall it is considered that the overall appearance would not adversely affect the character of this part of the Conservation Area, or otherwise have an unacceptable impact upon the visual qualities of this area, subject to further controls over the specification of external materials which can be controlled through planning conditions.
- 6.2.7 Concerns have been raised that the proposed would affect riparian rights in relation to the River Severn, and that the site encroaches onto third party land. It is understood that the parties with freehold and/or a leasehold interest in the land are Shropshire Council, Shrewsbury and Atcham Borough Council and the Environment Agency. The application site abuts land owned by a resident but would not prevent access to the river from that property. The applicant has advised that it is not proposed to block the current access path that runs from this property along the riverbank.
- 6.3 **Water environment and flood risk considerations**
- 6.3.1 Core Strategy Policy CS18 seeks to reduce flood risk and avoid adverse impact on water quality and quantity.
- 6.3.2 The application is accompanied by a Flood Risk Assessment (FRA) and also a Hydromorphology Impact Assessment which has informed the design of the scheme. The FRA calculates that the turbine scheme would result in a small reduction in water levels on the river. It concludes that the scheme would very slightly reduce the flood risk on the river and adjacent floodplain.
- 6.3.3 The Environment Agency notes that the proposed scheme would result in a loss of flood storage due to the presence of the turbine house. However the Agency advises that, when considering the expected tolerances of the modelling technique used, the development is unlikely to impact on flood risk.
- 6.3.4 Furthermore the Agency considers that the proposal is unlikely to have a significant effect on flood flow routes, based upon the topography of the area. Whilst the concerns of the representative of the Anglers Federation regarding potential impacts on river flows and fish are acknowledged. However, as noted by the Agency, in addition to planning permission, a number of further consents will need to be obtained prior to the scheme being able to go ahead. These include a water resource licence, flood defence consent and fish pass approval. The Agency also have a duty to ensure that schemes are compliant with Directives and Acts for the freedom of movement of fish, including the free passage of migratory salmon. The Agency will be assessing hydromorphological and geomorphological issues as part of the determination of the Environmental Permit, and it has advised that they do not foresee any significant cause for concern at the current time.
- 6.3.5 In view of the above, it is considered that the planning application documents demonstrate to a satisfactory level, for land-use planning purposes, that the proposal is acceptable in relation to potential impacts on the water environment. As such it is in line with Core Strategy Policy CS18.



**6.4 Local amenity considerations**

6.4.1 Core Strategy Policy CS6 seeks to safeguard residential and local amenity.

6.4.2 Noise: The application states that the turbine and generator would be in a sealed, water-tight, concrete structure underground, and that no noise issues are anticipated. Further information provided by the applicant states that the only external noise would occur during those occasional times when the fish screen cleaner is in operation, to remove accumulated debris. The Public Protection Officer considers that no noise issues would be likely. The noise of water flowing over the weir is anticipated to be principal noise in the area. Whilst this noise would be lower during lower flows, the application notes that the turbine would not operate during low flows.

**6.5 Ecological considerations**

6.5.1 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.

6.5.2 Concerns have been raised through objections to the proposed development over the potential impact on wildlife in the area, including otters and bats. The Environment Agency considers that the proposal is unlikely to have significant impact on otter. Nevertheless, following on from recommendations made by the Shropshire Wildlife Trust the design of the proposal has been modified to incorporate gabion walls to enable otter to access the river bank alongside the turbine. In principle it is considered that this is in line with the recommendations of the Trust. Nevertheless a condition can be imposed on any permission granted to require that the detailed design of this is submitted for approval.

6.5.3 In relation to bats, the ecological survey undertaken assessed the potential for trees within and beyond the application site boundary to contain bat roosts. The report states that one damaged willow tree on the eastern boundary of the works has potential for episodic use by bats. This tree would be retained as part of the proposed scheme. The Council's Ecologist has advised that the river corridor is an important bat foraging and commuting route, and considers that the proposed increase in number of trees will provide a long term gain to this function. The recommendations of the Council's Ecologist requiring prior approval of any lighting, and for the provision of bat boxes can be secured by planning condition.

6.5.4 Overall it is considered that the proposed scheme incorporates sufficient measures to address potential issues in relation to protected species. In addition the provision of replacement and additional trees, and bat and bird boxes would contribute to improvements to the ecological value of the area. As such the proposal is in line with Core Strategy Policy CS17.

**6.6 Pollution considerations**

6.6.1 Part of the Castle Walk amenity area is a former landfill site which closed in the 1960's. Whilst the proposed turbine development would be situated outside of the landfilled area, one of the monitoring boreholes is located at the turbine site. It is considered that it would be appropriate to impose a condition requiring that this borehole is replaced to a suitable specification and location, as recommended by the Public Protection Officer. The Officer has also recommended that a site investigation

report, with provision for remediation if necessary, is submitted and this requirement can be secured by a planning condition.

6.6.2 It is considered that these precautions would ensure that satisfactory provision can be made to minimise the risk of pollution.

## 6.7 **Highways and traffic considerations**

6.7.1 The hydroturbine would be unmanned. Access to the site would be limited to occasional maintenance and inspection visits. Vehicles associated with these visits would not need to park at the site, and would access the site on foot. It is noted that there is no provision for vehicle parking at the site. The application refers to there being occasional parties of visitors to the site. Again, any such visitors would access the site on foot.

6.7.2 Outline details of the construction phase have been submitted. The applicant anticipates that the turbine could be constructed within a single low water season. Construction vehicles would approach the site from Monkmoor Road via Tankerville Street. It is anticipated that the track from the Castle Walk car park to the site would be temporarily re-surfaced for the duration of the construction phase, and the construction area secured by fencing.

6.7.3 The Highways Officer has confirmed that the principle of the existing access track being used is acceptable, but that further details of surfacing, routing of vehicles and other construction management measures can be agreed at a later date. It is therefore recommended that a condition is imposed on any permission requiring that a Construction Method Statement and access details are submitted for approval prior to works commencing. This would control matters such as working hours, site security and the construction compound.

6.7.4 The construction of the proposed turbine, including deliveries of materials to the site, would inevitably result in some disturbance in the local area to residents and users of the surrounding public paths and amenity space. It is considered that these local impacts can be minimised through a Construction Method Statement which can be discussed and agreed with the highways team and other relevant bodies.

## 7.0 **CONCLUSION**

7.1 The proposed installation of a water turbine at the Shrewsbury weir would generate renewable energy for export to the National Grid, and contribute to a reduction in carbon emissions. As such the scheme is supported in principle by both national and local planning policy. The proposed turbine would incorporate a replacement and improved fish pass. Further consents will need to be obtained from the Environment Agency in relation to impacts on the river, including fish. However it is considered that sufficient information has been submitted as part of the planning application to demonstrate that the proposal would not have an unacceptable impact on the water environment and flood risk. The proposal would not adversely affect the character of the Conservation Area, and short term impacts from the loss of trees would be mitigated in the longer term by the planting of additional trees. The operation of the turbine would not adversely affect local amenity or the ecological value of the area. Temporary localised impacts from the construction of the turbine can be management through a Construction Method Statement. On the basis of the

above it is considered that the proposal is in line with the Development Plan and as such it is considered that planning permission can be granted subject to the conditions set out in Appendix 1.

## 8. Risk Assessment and Opportunities Appraisal

### 8.1 Risk Management

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

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

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

### 8.2 Human Rights

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

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

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

### 8.3 Equalities

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

## 9. Financial Implications

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

## 10. Background

### 10.1 Relevant Planning Policies

#### 10.1.1 Shropshire Core Strategy

This promotes a low carbon Shropshire by promoting the generation of energy from renewable sources (Strategic Objective 1)

- Policy CS5 (Countryside and Green Belt)
- Policy CS6 (Sustainable Design and Development Principles)
- Policy CS8 (Facilities, Services and Infrastructure Provision)
- Policy CS13 (Economic Development, Enterprise and Employment)
- Policy CS17 (Environmental Networks) – to identify, protect, enhance, expand and connect Shropshire’s environmental assets
- Policy CS18 (Sustainable Water Management)

### 10.2 Central Government Guidance:

10.2.1 National Planning Policy Framework (NPPF): Amongst other matters, the NPPF: encourages the use of renewable resources (para. 17 - Core Planning Principles); promotes good design as a key aspect of sustainable development (Chapter 7); supports the move to a low carbon future as part of the meeting of the challenges of climate change and flooding (Chapter 10); advises that lpa’s recognize that even small-scale projects provide a valuable contribution to cutting greenhouse gas emissions, and approve applications if its impacts are (or can be made) acceptable (Chapter 10); states that the planning system should contribute to and enhance the natural and local environment by preventing development from contributing to unacceptable levels of soil, air, water or noise pollution (Chapter 11).

10.2.2 Planning practice guidance for renewable and low carbon energy (March 2014) states (para. 001) that increasing the amount of energy from renewable and low carbon technologies will help to make sure the UK has a secure energy supply, reduce greenhouse gas emissions to slow down climate change and stimulate investment in new jobs and businesses. Planning has an important role in the delivery of new renewable and low carbon energy infrastructure in locations where the local environmental impact is acceptable.

The PPG states that:

- All communities have a responsibility to help increase the use and supply of green energy, but that this does not mean that the need for renewable energy

automatically overrides environmental protections and the planning concerns of local communities (para. 003).

- The need for renewable or low carbon energy does not automatically override environmental protections
- great care should be taken to ensure heritage assets are conserved in a manner appropriate to their significance, including the impact of proposals on views important to their setting
- protecting local amenity is an important consideration which should be given proper weight in planning decisions.

In relation to proposals for hydropower, the PPG states that planning applications should normally be accompanied by a Flood Risk Assessment.

### 10.3 Emerging policy:

10.3.1 Site Allocations and Development Management (SAMDev) document: The SAMDev has been submitted to the Secretary of State and has been through a process of examination. The SAMDev will allocate sites for various types of development and will set out detailed policies to guide future development in the county. At this stage, the site and surrounding area are not subject to any specific allocations in the SAMDev.

10.3.2 Draft Development Management policies: Relevant draft Development Management policies include:

- MD2 (Sustainable Design)
- MD8 (Infrastructure Provision)
- MD12 (Natural Environment)
- MD13 (Historic Environment)

### 10.4. Other relevant considerations

Shrewsbury Place Plan: This is a material planning consideration. The Place Plan provides details of community priorities for infrastructure and investment needs for the area. The Shrewsbury Weir Hydro Scheme is listed in the “Environmental” theme of the Shrewsbury Place Plan. The scheme is listed as a key priority in the schedule of wider investment priorities for the town. The notes state: “Dependant on results of detailed feasibility study (currently ongoing) and funding availability. An offline solution on the fish pass may be acceptable from a flood risk perspective, but any raising of the weir to provide navigation or a larger scale hydropower project is likely to cause issues in relation to flood risk. Shrewsbury Town Council owns some of the land but is happy for it to be utilised for the scheme”.

### 10.5 Relevant Planning History:

12/03678/TCA Lift branches from two areas of various trees within Shrewsbury Conservation Area (Underdale Road Extension) NOOBJC 25th September 2012  
SA/82/1080 Use of land as public open space, creation of cycleway along existing footpath and construction of a replacement footpath. NOOBJC 29th December 1982

**11. Additional Information**

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

The application ref. 15/01395/FUL and supporting information and consultation responses.

Cabinet Member (Portfolio Holder)

Cllr M. Price

Local Member

Cllr Miles Kenny (Underdale)

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 built development shall commence until details of all external materials, including hard surfacing, have been first submitted to and approved by the Local Planning Authority. The development shall be carried out in accordance with the approval details.

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

4. No built development shall commence until samples of all external materials including hard surfacing, have been first submitted to and approved by the Local Planning Authority. The development shall be carried out in accordance with the approval details.

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

5. Prior to the occupation of any buildings on site details of all walls, fences and hedges shall have been submitted to and approved by the Local Planning Authority. The approved details shall be completed prior to the occupation of any of the buildings on the site and thereafter retained.

Reason: To provide adequate privacy and an acceptable external appearance.

6. 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.

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

- i. the parking of vehicles of site operatives and visitors

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

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

8. No development hereby permitted shall take place until details of the location and specification of a landfill site monitoring borehole have been submitted to and approved in writing by the local planning authority. The submitted details shall include details of the timescale for the installation of the borehole. The borehole shall be installed in accordance with the approved details and timetable.

Reason: To facilitate continued monitoring of the adjacent former landfill site.

9.
  - a) No development shall take place until a Site Investigation Report has been undertaken to assess the nature and extent of any contamination on the site. The Site Investigation Report shall be undertaken by a competent person and conducted in accordance with DEFRA and the Environment Agency's 'Model Procedures for the Management of Land Contamination, CLR 11'. The Report is to be submitted to and approved in writing by the Local Planning Authority.
  - b) In the event of the Site Investigation Report finding the site to be contaminated a further report detailing a Remediation Strategy shall be submitted to and approved in writing by the Local Planning Authority. The Remediation Strategy must ensure that the site will not qualify as contaminated land under Part 2A of the Environmental Protection Act 1990 in relation to the intended use of the land after remediation.
  - c) The works detailed as being necessary to make safe the contamination shall be carried out in accordance with the approved Remediation Strategy.
  - d) In the event that further contamination is found at any time when carrying out the approved development that was not previously identified it must be reported in writing immediately to the Local Planning Authority. An investigation and risk assessment must be undertaken in accordance with the requirements of (a) above, and where remediation is necessary a remediation scheme must be prepared in accordance with the requirements of (b) above, which is subject to the approval in writing by the Local Planning Authority.
  - e) Following completion of measures identified in the approved remediation scheme a Verification Report shall be submitted to and approved in writing by the Local Planning Authority that demonstrates the contamination identified has been made safe, and the land no longer qualifies as contaminated land under Part 2A of the Environmental Protection Act 1990 in relation to the intended use of the land.



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

10. No development shall commence until detailed plans showing alterations to the scheme to allow free access for otters to move through the River Severn corridor, including gabions, have been submitted to and approved in writing by the Local Planning Authority and thereafter implemented.

Reason: to protect otters, a European Protected Species.

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

11. 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.

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

12. The approved measures for the protection of the trees as identified in the agreed "BS5837 Tree Survey for proposed hydro-electric scheme, Method Statement and Tree Protection Plan: Surveyor: Jim Unwin Date: April 2012" shall be implemented in full prior to the commencement of any development related activities on site, and they shall thereafter be maintained for the duration of the site works. No material variation shall be made from the approved tree protection plan without the written agreement of the Local Planning Authority.

Reason: To safeguard retained trees which are important to the appearance of the development.

13. A total of three 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 development hereby permitted as recommended in the Protected Species Survey Report by Shropshire Wildlife Surveys dated May 2012. 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.

14. Prior to the first operation of the development details of a minimum of five artificial nests suitable for small birds such as robin, blackbird, tit species, sparrow and kingfisher shall be submitted to and approved in writing by the local planning authority. The approved details shall be implemented in full prior to the operation of the development.

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

### **Informatives**

1. Where there are pre commencement conditions that require the submission of information for approval prior to development commencing at least 21 days notice is required to enable proper consideration to be given.
2. The local planning authority has worked in a positive and proactive way in determining this planning application, as required by paragraph 187 of the NPPF, in order to address issues raised and secure an acceptable development.
3. Himalayan Balsam 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. 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).

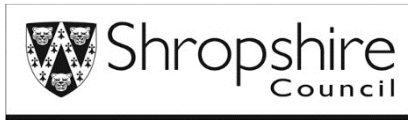
If a live bat should be discovered on site at any point during the development then work must halt and Natural England should be contacted for advice.

It is recommended that a suitably licenced ecologist inspects the trees again prior to removal to check for evidence of bats and appropriate precautions to protect bats taken if necessary.

5. 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.



Committee and date

Central Planning Committee

18 June 2015

## Schedule of Appeals and Appeal Decisions

<b>LPA reference</b>	13/04608/FUL
<b>Appeal against</b>	Appeal Against Refusal
<b>Appellant</b>	Mr D Parton
<b>Proposal</b>	Erection of five detached dwellings following demolition on existing bungalow to include associated access improvements and landscaping
<b>Location</b>	Vashlyn Woodfield Road Shrewsbury
<b>Date of application</b>	14.11.2013
<b>Officer recommendation</b>	Grant Permission
<b>Committee decision (delegated)</b>	Committee
<b>Date of decision</b>	24.02.2014
<b>Date of appeal</b>	12.05.2014
<b>Appeal method</b>	Written Representations
<b>Date site visit</b>	02.02.2015
<b>Date of appeal decision</b>	14.05.2015
<b>Determination time (weeks)</b>	
<b>Appeal decision</b>	<b>ALLOWED</b>
<b>Details</b>	

<b>LPA reference</b>	14/01036/OUT
<b>Appeal against</b>	Appeal Against Refusal
<b>Appellant</b>	Oak Street Properties Ltd
<b>Proposal</b>	Outline application for residential development (upto 30 dwellings) to include access.
<b>Location</b>	Development Land South Of Brook Cottages Ford Shrewsbury
<b>Date of application</b>	10.03.2014
<b>Officer recommendation</b>	Grant Permission
<b>Committee decision (delegated)</b>	Committee
<b>Date of decision</b>	29.08.2014
<b>Date of appeal</b>	03.11.2014
<b>Appeal method</b>	Hearing
<b>Date site visit</b>	27.01.2015
<b>Date of appeal decision</b>	19.05.2015
<b>Determination time (weeks)</b>	
<b>Appeal decision</b>	<b>DISMISSED</b>
<b>Details</b>	

<b>LPA reference</b>	14/01704/OUT
<b>Appeal against</b>	Appeal Against Refusal
<b>Appellant</b>	Mr & Mrs D Jones
<b>Proposal</b>	Outline application for the erection of 35 dwellings to include means of access, together with resiting of school football pitch, provision of extended school car park and new school access (amended description)
<b>Location</b>	Proposed Development Land South Of Plealey Lane Longden
<b>Date of application</b>	15.04.2014
<b>Officer recommendation</b>	Grant Permission
<b>Committee decision (delegated)</b>	Committee
<b>Date of decision</b>	25.11.2014
<b>Date of appeal</b>	15.04.2015
<b>Appeal method</b>	Written Representations
<b>Date site visit</b>	
<b>Date of appeal decision</b>	
<b>Determination time (weeks)</b>	
<b>Appeal decision</b>	
<b>Details</b>	

<b>LPA reference</b>	14/05691/FUL
<b>Appeal against</b>	Appeal Against Refusal
<b>Appellant</b>	Mr S Speake
<b>Proposal</b>	Erection of 1 No dwelling and detached double garage
<b>Location</b>	Proposed Dwelling Opposite Pharay Habberley Shrewsbury
<b>Date of application</b>	19.12.2014
<b>Officer recommendation</b>	Refusal
<b>Committee decision (delegated)</b>	Delegated
<b>Date of decision</b>	05.03.2015
<b>Date of appeal</b>	15.04.2015
<b>Appeal method</b>	Written Representations
<b>Date site visit</b>	
<b>Date of appeal decision</b>	
<b>Determination time (weeks)</b>	
<b>Appeal decision</b>	
<b>Details</b>	

<b>LPA reference</b>	14/05310/OUT
<b>Appeal against</b>	Appeal Against Refusal
<b>Appellant</b>	J Warner & Son
<b>Proposal</b>	Outline application for the erection of two live/work units to include means of access
<b>Location</b>	Land North Of Kinton Business Park Kinton Shrewsbury
<b>Date of application</b>	25.11.2014
<b>Officer recommendation</b>	Refusal
<b>Committee decision (delegated)</b>	Delegated
<b>Date of decision</b>	28.01.2015
<b>Date of appeal</b>	24.03.2015
<b>Appeal method</b>	Written Representations
<b>Date site visit</b>	
<b>Date of appeal decision</b>	
<b>Determination time (weeks)</b>	
<b>Appeal decision</b>	
<b>Details</b>	

<b>LPA reference</b>	14/02417/FUL
<b>Appeal against</b>	Appeal Against Refusal
<b>Appellant</b>	Mr W Davies
<b>Proposal</b>	Erection of one dwelling; including balcony, detached double garage and formation of vehicular access
<b>Location</b>	Land North Of Bridge Farm Uffington Shrewsbury
<b>Date of application</b>	02.06.2014
<b>Officer recommendation</b>	Refusal
<b>Committee decision (delegated)</b>	Delegated
<b>Date of decision</b>	13.01.2015
<b>Date of appeal</b>	12.05.2015
<b>Appeal method</b>	Written Representations
<b>Date site visit</b>	
<b>Date of appeal decision</b>	
<b>Determination time (weeks)</b>	
<b>Appeal decision</b>	
<b>Details</b>	

<b>LPA reference</b>	14/02767/OUT
<b>Appeal against</b>	Appeal Against Refusal
<b>Appellant</b>	Mr W Warner
<b>Proposal</b>	Outline planning application for the erection of 3 detached dwellings to include access (amended description)
<b>Location</b>	Land Opposite Top Farm Kinton Shrewsbury
<b>Date of application</b>	23.06.2014
<b>Officer recommendation</b>	Refusal
<b>Committee decision (delegated)</b>	Delegated
<b>Date of decision</b>	27.04.2015
<b>Date of appeal</b>	07.05.2015
<b>Appeal method</b>	Written Representations
<b>Date site visit</b>	
<b>Date of appeal decision</b>	
<b>Determination time (weeks)</b>	
<b>Appeal decision</b>	
<b>Details</b>	

<b>LPA reference</b>	14/00335/OUT
<b>Appeal against</b>	Appeal Against Refusal
<b>Appellant</b>	Morris Property
<b>Proposal</b>	Outline application (access, layout and scale) for the erection of 47 dwellings (7 affordable), school hall, carparking area and enlarged school playing field for existing school, allotments, village green and informal open space (amended description).
<b>Location</b>	Proposed Development Land East Of Station Road Conover Shrewsbury
<b>Date of application</b>	27.01.2014
<b>Officer recommendation</b>	Grant Permission
<b>Committee decision (delegated)</b>	Committee
<b>Date of decision</b>	25.11.2014
<b>Date of appeal</b>	17.03.2015
<b>Appeal method</b>	Written Representations
<b>Date site visit</b>	
<b>Date of appeal decision</b>	
<b>Determination time (weeks)</b>	
<b>Appeal decision</b>	
<b>Details</b>	

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## Appeal Decision

Site visit made on 2 February 2015

**by Tom Cannon BA DIP TP MRTPI**

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

**Decision date: 14 May 2015**

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**Appeal Ref: APP/L3245/A/14/2218662**

**Vashlyn, Kelsalls Lane, Copthorne, Shrewsbury, Shropshire, SY3 8LU**

- 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 D Parton against the decision of Shropshire Council.
  - The application Ref 13/04608/FUL, dated 13 November 2013, was refused by notice dated 24 February 2014.
  - The development proposed is the erection of five detached dwellings following demolition of existing bungalow to include associated access improvements and landscaping.
- 

### Decision

1. The appeal is allowed and planning permission is granted for the erection of five detached dwellings following demolition of existing bungalow to include associated access improvements and landscaping at Vashlyn, Kelsalls Lane, Copthorne, Shrewsbury, Shropshire, SY3 8LU in accordance with the terms of the application, Ref 13/04608/FUL, dated 13 November 2013, subject to the conditions set out in the Schedule of Planning Conditions attached hereto and forming part of this decision.

### Procedural Matters

2. The description of development set out in the formal decision is not that taken from the application form but the one taken from the decision notice and appeal form. This is preferred as it more accurately describes the development which consists of five dwellings each providing living accommodation over two floors.
3. The submitted drawings show work to part of the footpath on Kelsalls Lane near the junction with Woodfield Road. This lies outside the appellant's control and the red line shown on drawing no SA13315/03. As such, I am not treating this part of the development as part of the scheme before me. In any event the appellant argues that these works are not a necessary part of the development.

### Main Issues

4. The main issues in this appeal are the effect of the proposal on:
  - (1) the living conditions of occupiers of properties in Porthill Drive, with particular regard to privacy;
  - (2) whether future occupiers would experience acceptable living conditions in respect of noise and light disturbance;
  - (3) the character and appearance of the area; and

(4) the effect of the proposed access arrangement on the safety of pedestrians, cyclists and vehicular traffic on Kelsalls Lane.

## **Reasons**

### *Living conditions*

5. The appeal site comprises of a large, roughly rectangular plot of land accessed off Kelsalls Lane, a narrow single track road serving several residential properties, a tennis club and two schools. The existing dwelling, Vashlyn occupies a central position within the plot, and is orientated at an oblique angle to houses in Porthill Drive to the rear of the site. The long rear gardens to these properties increase the distance and sense of separation between the rear facing windows of houses in Porthill Drive and the appeal site.
6. It is proposed to demolish the existing bungalow and erect five detached dwellings on the land. Although the appeal site occupies a slightly elevated position in relation to properties in Porthill Drive, separation distances of between 33 metres and 48.5 metres would be retained between rear facing windows in the proposed dwellings and the existing houses. I recognise that there is no specific policy guidance regarding minimum spacing standards between existing and proposed development in either the Shropshire Local Development Framework: Adopted Core Strategy 2011 (CS) or the Shropshire Type and Affordability of Housing SPD 2012 (SPD). I am also mindful that the rear elevation of plot 1, which would include a rear facing first floor bedroom, would be about 7 metres from the boundary with No 47 Porthill Drive. However, a combination of the proposed distance between dwellings and orientation of the new properties on the plot would reduce any potential direct overlooking of houses in Porthill Drive.
7. A row of mature conifer trees defines the rear boundary of the site. If retained, these trees would screen the proposed development from properties in Porthill Drive. Whilst I appreciate that the leylandi trees would need to be replaced at some stage, I observed at my site visit that they appeared to be in good health and were not showing any obvious signs of damage or disease. This would suggest that these trees could continue to provide an effective screen between the proposed new dwellings and houses in Porthill Drive for some time. Their retention for a five year period could also be secured by condition. Nevertheless, even if the conifer trees were removed at the end of this period, I am satisfied that the separation distances to be provided would be sufficient to ensure that the proposed dwellings do not unduly overlook neighbouring properties.
8. For these reasons, I conclude that the appeal development would not harm the living conditions of occupiers of properties in Porthill Drive, with particular regard to privacy. It would therefore comply with Policy CS6 of the CS which seeks to create sustainable communities by safeguarding residential and local amenity. The appeal development would also accord with guidance in the SPD which states that proposals should not have unacceptable consequences for neighbours, including potential loss of privacy. These objectives are broadly consistent with one of the core planning principles of the Framework, to secure a good standard of amenity for all existing and future occupiers of land and buildings.



9. Concerns have also been raised regarding potential noise and light disturbance to future occupiers from vehicular traffic on Kelsalls Lane. However, the proposed dwellings would be set back from the lane with a new hedgerow to be planted along the site frontage. Such factors would limit any potential impact on the proposed occupants. A tennis club is situated to the east of the site. The dwelling on plot 5, which would adjoin this use, would be positioned away from the boundary and would not contain any principal windows in its flank elevation facing the tennis court. The existing flood lighting is also directed into the tennis courts away from the appeal site. Furthermore, I am mindful that other existing dwellings in the locality have a similar relationship to the tennis club which, from the evidence put before me does not appear to present any problems in respect of noise or light disturbance.
10. Consequently, I conclude that the appeal scheme would provide acceptable living conditions for future occupiers in respect of noise and light disturbance. As such, the scheme would accord with Policy CS6 of the CS, guidance in the SPD and the Framework.

#### *Character and appearance*

11. The appeal site is situated directly opposite and adjacent to infant and junior schools, and a tennis club. However, the surrounding area is decidedly residential in character. The pattern of development in the locality varies significantly with a mix of detached and semi-detached two storey houses and bungalows. Whilst I recognise that houses in Porthill Drive are situated in large plots with long rear gardens, other properties, including the bungalows immediately to the west of the site and on Woodfield Road have much smaller rear gardens. This adds to the varied structure and pattern of the area.
12. The development would introduce five new dwellings across the width of the site. The principal elevations of the new properties would follow the building line of the existing bungalows on Kelsalls Lane. The depth and width of the rear gardens and the scheme's overall density would also be comparable to other properties in the locality. Therefore, in this respect, the development would preserve the established character and layout of the surrounding area.
13. It has also been put to me that the proposed access arrangements would provide a sense of formality to Kelsalls Lane, through the removal of the existing conifer hedge along the site frontage, and its replacement with a new footway, passing bay and vehicular access. Nevertheless, Kelsalls Lane is currently enclosed on both sides by fencing serving the tennis courts and adjacent schools. Domestic timber fencing to existing houses boarding the lane adds to the enclosed feel. Therefore, the introduction of new sections of footway and a vehicular access, which includes replacement hedgerow planting, would not significantly alter the character of the lane.
14. As such, I conclude that the appeal proposal would not appear out of character with its context or harm the character and appearance of the area. It would therefore comply with Policy CS6 of the CS which requires development to protect, restore, conserve and enhance the natural and built environment, taking into account local context and character. The proposal would also accord with the core planning principles of the Framework to always seek to secure high quality design, and take account of the different roles and character of different areas, objectives with which the relevant policies of the Framework are consistent.

### *Highway safety*

15. Kelsalls Lane is a narrow road providing access to the infant and junior schools, a tennis club and four existing dwellings, including Vashlyn. Due to its restricted width it is not possible for two vehicles travelling in opposite directions to pass, other than by utilising the informal passing point south of the tennis courts. Separate pedestrian accesses are provided for both schools which are open for access at the start and end of the school day. However, I observed that parents and children also used Kelsalls Lane as a pedestrian route, despite the absence of a defined footway to access the schools and activities at the tennis club. I have also had regard to the comments from Shropshire Council Learning and Skills Business Support Team in its capacity as landowner, the Local Education Authority, Town Council, a local Councillor and residents who have raised concerns about such matters and the prospect of the appeal development exacerbating these issues.
16. It is evident that the potential for vehicle and pedestrian conflict on Kelsalls Lane would be greatest at certain peak periods, such as the start and end of the school day. I was able to witness pedestrians taking evasive action to allow several vehicles to pass on the lane during this peak period prior to my formal site visit. I recognise that some staff movements, deliveries to the schools and journeys associated with the tennis club occur at other times of the day. However, by 16.15 the number of both pedestrian and vehicular movements appeared to have reduced significantly with only the occasional journey either by foot, bicycle or motor vehicle occurring on Kelsalls Lane. This suggests that for the majority of the day, outside these two peak periods traffic and pedestrian activity in the lane is fairly light.
17. The appeal development would result in four additional dwellings being accessed off Kelsalls Lane. The appellant anticipates that 6 movements per dwelling would occur in a 24 hour period, taking the lower value in a band width of between 6-9 movements per household, which it is suggested is widely recognised as the trip generation for assessment of residential traffic. Even if I apply the higher value, this would only equate to 36 additional movements over a 24 hour period. Of these trips, it is envisaged that there is only likely to be one movement per household in peak periods or one movement per 15 minutes. This appears to me to be a reasonable assessment of the potential increase and spread of movements associated with the proposed development. No substantive evidence has been provided by the Council or interested parties to challenge these figures.
18. In the context of the total number of vehicle movements during peak times connected with the adjacent school sites, the 4 additional movements per hour associated with the development are unlikely to significantly increase pedestrian and vehicle conflict on Kelsalls Lane. Nor would a further 28 trips per day outside these peak periods place undue pressure on the lane when both pedestrian and vehicular movements are substantially reduced. I also recognise that the appeal scheme may also generate some additional trips on foot and by bicycle. However, these movements are not likely to be significant.
19. In terms of visibility, vehicles entering Kelsalls Lane from the Woodfield Road direction have good forward visibility of on-coming traffic and pedestrians. This enables drivers to proceed cautiously along the initial stretch of the lane or pull over onto the hardstanding immediately prior to the tennis courts to allow

- other vehicles, pedestrians or cyclists to pass. It also negates the need for a new section of footway adjacent to the main access off Woodfield Road.
20. Due to the alignment of Kelsalls Lane beyond this point, vehicles travelling in either direction would have clear sight of both pedestrians and oncoming traffic using the lane. The provision of a new passing bay and footway/cycleway along the site frontage would further reduce potential vehicular and pedestrian conflict in an area which is situated directly opposite both main entrances to the schools.
21. Therefore, despite the lack of a continuous footway, I conclude that the proposed access arrangement would not have a harmful effect on the safety of pedestrians, cyclists and vehicular traffic on Kelsalls Lane. As such, the development would accord with Policy CS6 of the CS which requires proposals which are likely to generate significant levels of traffic to be located in accessible locations. These objectives are broadly consistent with advice in paragraph 32 of the Framework which seeks to ensure that safe and secure access to the site can be achieved for all people.

### **Other matters**

#### *Housing supply*

22. Paragraph 49 of the Framework states that housing applications should be considered in the context of the presumption in favour of sustainable development. Relevant policies for the supply of housing should not be considered up-to-date if the local planning authority cannot demonstrate a five-year supply of deliverable housing sites. The appellant disputes that there is a demonstrable 5 year housing land supply and the development would provide an additional 4 dwellings locally which would contribute to supply which whether or not the Council has a 5 year supply, Government policy seeks to boost.
23. However, Policy CS6 of the CS referred to in the Council's reasons for refusal is concerned with the sustainable design of new development rather than the supply of housing and is not therefore a policy relevant to the supply of housing. It is not out-of-date. Paragraph 14 of the Framework states that for decision taking the presumption in favour of sustainable development means approving development proposals which accord with the development plan without delay. As I have found that the proposed scheme would accord with the development plan in respect of the main issues in this appeal it would therefore comply with the overarching aim of the Framework to achieve sustainable development. In any event, this matter does not affect my conclusions on the main issues above.

#### *Affordable housing*

24. Policy CS11 of the CS requires all open market dwellings to provide a contribution towards the provision of local needs affordable housing. The Shropshire Local Development Framework Type and Affordability of Housing Supplementary Planning Document 2012 (SPD) sets a robust methodology for calculating this cost, which for small sites with a net dwelling increase of under 5 units will normally take the form of a financial contribution. This follows a set formula based on the prevailing affordable housing target rate for the area, multiplied by both the number of dwellings to be provided and the standardised

construction cost per square metre of an affordable unit. It equates to a financial contribution of £72,000.

25. A signed Unilateral Undertaking (UU) dated 12 May 2014 has been submitted with the appeal which secures a financial contribution towards affordable housing in accordance with the above calculations. However, on the 28 November 2014 the Written Ministerial Statement (WMS) was issued setting out national policy on Section 106, including setting a threshold beneath which affordable housing contributions should not be sought. The Planning Policy Guidance (PPG) reaffirms this, confirming that affordable housing and tariff style planning obligations should not be sought for small scale development such as the appeal scheme. It also makes it clear that these are changes to national policy which should be read alongside the Framework. Therefore, the content of the WMS and PPG are material considerations in the determination of this appeal.
26. The Council has confirmed that following the above approach would seriously undermine their ability to provide much needed rural affordable housing, either directly on site, or indirectly through financial contributions. It is also suggested that this policy would affect housing and community aspirations enshrined within the CS. As such, the Council have confirmed they will continue to apply policy in the CS and SPD despite their clear conflict with national policy in the PPG. The main parties in the appeal have both commented on this matter.
27. Section 38(6) of the Planning and Compulsory Purchase Act 2004 and Section 70(2) of the Town and Country Planning Act 1990 require that applications for planning permission must be determined in accordance with the development plan unless material considerations indicate otherwise. The CS was adopted in 2011. Therefore, in this case the WMS provides more up to date national policy and effectively supersedes Policy CS11 of the development plan.
28. Consequently, having regard to the WMS, I consider that the provisions of the signed UU are not necessary to make the development acceptable in planning terms. Nor are they directly related to the development or fairly and reasonably related in scale and kind to the development. Thus, it would fail to accord with the advice in paragraph 204 of the Framework, and with the statutory tests set out in the Community Infrastructure Levy Regulations. Consequently, I have not taken the UU into account when reaching my decision in this case.

#### *Bats*

29. Circular 06/2005 states that it is essential that the presence or otherwise of protected species and the extent to which they may be affected by development is established before planning permission is established. The submitted 'interim bat survey' was undertaken in November outside the main bat roosting season. Nevertheless there is nothing to suggest in it or elsewhere in the evidence that the interior of the roof of the bungalow is being used by roosting bats. If bats are present, it is the evidence of the County Ecologist that these are likely to be crevice dwelling species. Mitigation of the loss of such roosts would be possible by the use of bat boxes and lifted tiles on new dwellings

30. The Circular states that additional surveys can only be covered by condition in exceptional circumstances. Given that the survey would be very much a precautionary measure, that mitigation could be provided for by a condition and an agreed position has been reached between the appellant and the County Ecologist, I consider that these are exceptional circumstances which justify conditioning additional survey work in this case.
31. Given that plot one would be sufficiently distant from the existing bungalow not to cause disturbance if bats were present in the bungalow, that dwelling could be built before any additional survey required by a condition.

*Other considerations*

32. Concerns have been raised by local residents regarding the removal of trees from the site prior to the submission of the original application. However, this is not a matter which is before me. Nor am I aware of any policy or guidance which restricts the number of dwellings that can be accessed off a private road.

**Conditions**

33. I have considered the conditions suggested by the Council in light of advice in paragraphs 203 and 206 of the Framework and the PPG. In the interests of precision and enforceability, and to accord more closely with advice in the PPG, I have amended the Council's suggested wording where appropriate.
34. In addition to the standard time limit condition it is necessary, for the avoidance of doubt, to define the plans with which the scheme should accord. Details of samples of materials, and requirement for the retention and protection of existing trees and hedgerows are required to preserve the character and appearance of the area and to protect the living conditions of residents in Porthill Drive.
35. A construction management plan is also necessary to protect the living conditions of nearby residents and in the interests of highway safety. Also for reasons of highway safety, details of the construction and drainage of the new access road, footway and passing bay directly outside the site entrance, road marking, signs and street lighting shall be submitted for approval prior to commencement of development.
36. It is necessary on a precautionary basis in order to ensure that bats are protected for a further emergence survey to be undertaken prior to the demolition of the bungalow and the construction of dwellings on plots 2-5. Also to minimise the potential disturbance to bats, a scheme detailing external lighting is required.

**Conclusion**

37. For the reasons set out above, and having regard to all other matters raised I conclude that the appeal should succeed.

*T Cannon*

INSPECTOR

### **Schedule of Conditions**

- 1) The development hereby permitted shall begin not later than three years from the date of this decision.
- 2) The development hereby permitted shall be carried out in accordance with the following approved plans: SA13315/03, SA13315/04, SA13315/05, SA13315/06, SA13315/07, SA13315/08, SA13315/09, SA13315/10.
- 3) No development shall take place until samples of the materials to be used in the construction of the external surfaces and hard surfacing areas of the dwellings hereby permitted have been submitted to and approved in writing by the local planning authority. Development shall be carried out in accordance with the approved details.
- 4) No development shall take place until a tree and hedgerow protection scheme has been submitted to and approved in writing by the local planning authority. The scheme should show all existing trees and hedgerows on or adjacent to the site, and shall identify whether each is to be retained or removed, together with details of measures for the protection of the retained trees and hedgerows before and during the course of development. These measures shall include protective fencing, and such fencing shall be erected in accordance with the approved plans and particulars before any equipment, machinery or materials are brought on to the site, and shall remain in place until the latter have been removed from the site and the development has been completed. Nothing shall be stored or placed in any area fenced in accordance with this condition and the ground levels within those areas shall not be altered, nor shall any excavation be made. No retained tree or hedgerow shall be cut down, uprooted or destroyed, nor be topped, lopped or pruned other than in accordance with the approved details. Any works which may be thus approved shall be carried out in accordance with BS 5837. If any retained tree or hedgerow is removed, uprooted or destroyed or dies, within a period of 5 years from the date of completion of the development, replacement planting shall be carried out in accordance with details to be approved in writing by the local planning authority.
- 5) Prior to the development commencing, including any works of demolition, a construction management plan shall be submitted to and approved in writing by the local planning authority. In particular the plan shall include:-
  - (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) Wheel washing facilities;
  - (v) Details of the responsible person (e.g. site manager/office) who could be contacted in the event of a complaint;
  - (vi) Mitigation measures in respect of noise and disturbance during the construction phase including piling techniques, vibration and noise limits, monitoring methodology, screening, a detailed

- specification of plant and equipment to be used and construction traffic routes;
- (vii) A scheme for the recycling and disposal of waste;
  - (viii) A scheme to minimise dust emissions arising from the demolition/construction activities on site. The scheme shall include details of all dust suppression measures and the methods to monitor emissions of dust arising from the development.
- 6) Development shall not begin until details, including the surfacing and drainage of the new access road, footway/cycleway, and passing bays along the site frontage, street lighting, carriageway markings and signs have been submitted to and approved in writing by the local planning authority. The dwellings shall not be occupied until the works have been completed in accordance with the approved details.
- 7) The existing bungalow shall not be demolished and no development shall take place on plots 2-5 until a bat survey has been carried out by a suitably qualified person, involving dusk and/or pre-dawn pre-entry surveys following the Bat Conservation Trust Bat Surveys – Good Practice Guidelines (2<sup>nd</sup> Edition 2012) and the results of the survey along with a schedule and implementation timetable for any mitigation measures has been submitted to and approved in writing by the local planning authority. All recommendations and mitigation measures agreed shall be implemented in accordance with the agreed schedule and timetable.
- 8) Details of all external lighting shall be submitted to and approved in writing by the local planning authority before the dwellings are occupied. Development shall be carried out in accordance with the approved details.

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## Appeal Decision

Hearing held on 27 January 2015

Site visit made on 27 January 2015

**by Tom Cannon BA DIP TP MRTPI**

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

**Decision date: 19 May 2015**

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**Appeal Ref: APP/L3245/A/14/2228348**

**Land south of Brook Cottages, Ford, Shrewsbury, SY5 9LJ**

- 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 Oak Street Properties Limited against the decision of Shropshire Council.
  - The application Ref 14/01036/OUT, dated 7 March 2014, was refused by notice dated 29 August 2014.
  - The development proposed is a residential development of up to 30 dwellings.
- 

### Decision

1. The appeal is dismissed.

### Preliminary Matters

2. The application was made in outline with all matters reserved other than access. I have determined the appeal on this basis.
3. The parties agreed at the Hearing that the Council's emerging Site Allocations and Management of Development Plan (SAMDev) can be afforded limited weight as the examining Inspector's report has yet to be produced. Based on all that I have read and heard I agree with this. I have, therefore, considered the appeal against the adopted development plan and national policy.
4. Following the closure of the Hearing, an amended Unilateral Undertaking (UU) was submitted, to include definitions of discounted sale and rented dwellings. The revised UU has been agreed with the Council. I have also been provided with updated position statements from the parties regarding housing supply in Shropshire, and a copy of the appellant's Five Year Supply Rebuttal Statement submitted to the SAMDev examining Inspector. Comments have been received from both the appellant and Council in response to the respective statements.

### Main Issue

5. Based on all that I have seen, read and the discussion at the Hearing, I consider that the main issue in this case is whether or not the proposal would provide a suitable site for housing having regard to housing supply, and the principles of sustainable development.

## Reasons

### *Background*

6. The appeal site lies in the open countryside to the west of the village of Ford. It forms part of a large parcel of agricultural land which extends between existing residential development in Manor Crest and Brook Cottages to the north, and the A458 to the south. The northern boundary of the land is defined by mature landscaping, with a brook course meandering through the rear gardens of properties and incidental open space in Manor Crest. An existing public right of way crosses the north-east corner of the site linking the adjacent residential development with the A458. To the south-east is the Leasowes Recreation Ground.
7. The proposed residential development would be accessed off Bank Lane which provides one of two routes into the village off the A458. The land to the west of Back Lane is principally in agricultural use although it does include an existing poultry farm which benefits from an extant planning permission for employment use.
8. The development plan comprises of the Shropshire Local development Framework Adopted Core Strategy 2011(CS) and certain policies of the Shrewsbury and Atcham Local Plan 2001 (LP) which have been saved following a Direction made by the Secretary of State. I find no significant conflict with the National Planning Policy Framework (the Framework) in respect of the development plan policies cited in the Council's reason for refusal and, accordingly, will give them full weight insofar as they are relevant to the appeal scheme.

### *Housing land supply*

9. The Framework sets out in paragraph 47 that to boost significantly the supply of housing, local planning authorities should be able to demonstrate a 5 year supply of deliverable housing sites. There is a disagreement between the parties as to whether the Council can demonstrate a 5 year supply of deliverable housing land. The Council confirmed at the Hearing that they can currently demonstrate a 5.43 year supply of deliverable housing land not the 5.48 years referred to in their appeal statement.

### *Housing requirement*

10. Policy CS1 of the CS sets out a housing requirement figure of 27,500 new homes for Shropshire within the plan period 2006-2026. The Council would prefer to apply a phased rather than annualised approach to calculating their housing requirement. I recognise that this method has been accepted elsewhere and the policy wording in Policy CS10 of the CS originally contained reference to a phased trajectory prior to its adoption in 2011. However, this reference was removed due to concerns that it could suppress development. Moreover, the explanation for Policy CS10 makes it clear that the purpose of this policy is to guide phased allocations in the SAMDev and will not impact on the assessment of five year supply. Therefore, in my view the annualised approach is the most appropriate method to apply in this case. This equates to an annual requirement of 1,375 dwellings or a total requirement for the period 2006-2014 of 11,000 new homes.

*Under-delivery and application of the buffer*

11. Over the first 8 years of the plan period 8,280 dwellings have been provided in Shropshire. This represents a shortfall in the supply of housing of 2,720 dwellings. In addressing its existing shortfall the Council has put forward four potential scenarios. One of these approaches follows the 'Sedgefield method' where the shortfall in delivery should be met within the next five years, with the remaining three options advocating the 'Liverpool method' where it should be spread out over the remainder of the plan period, in this case the next 12 years.
12. I acknowledge the Council's concerns that the resultant five year requirement is so large that it would be undeliverable in the Shropshire market. I also recognise that the SAMDev is at an advanced stage of preparation and may facilitate the delivery of sites later on in the plan period. However, this would be at a stage of even higher forecast housing demand following the increasing five year bands in Policy CS10 and where there are likely to be fewer allocations. Moreover, the 'Sedgefield approach' more closely accords with the Framework requirement to 'boost significantly the supply of housing' and advice in the Planning Practice Guidance (PPG) that local planning authorities should aim to deal with any undersupply within the first five years of the plan period where possible which in this case amounts to 2,720 dwellings.
13. The Council does not dispute that there has been persistent under delivery of housing in previous years of the plan period. In the circumstances, the application of a 20% buffer, in accordance with paragraph 47 of the Framework, is agreed between the parties. I have no reason to disagree. This amounts to a total of 1,375 dwellings.
14. It is however disputed how the 20% buffer should be applied to the five year requirement or to the five year requirement plus the backlog. The appellants argue that the application of the buffer should include the backlog, thereby increasing the five year housing requirement, and reducing the housing land supply to less than five years based on the late November 2014 figure. The Framework makes clear that the buffer is to ensure choice and competition in the market for land, that it should be supply brought forward from future years of the plan period. I am persuaded by the Council's argument that applying the buffer to the sum of the five year requirement and the backlog would increase the total housing requirement over the lifetime of the plan, and that this approach would represent a penalty on the Council which is not intended by the Framework.

*Housing supply*

15. I do not agree with the appellant's points concerning an additional discount for North Shropshire, due to the viability of building residential properties in the Northern part of the County as opposed to other parts of the County. Although the appellant has indicated that the delivery rate is proportionally lower in the North, the logical implication of such a policy would be to even out such a discount by reducing discounts in other areas of the County.
16. The appellant has made reference to delays in issuing section 106 legal agreements and older consents. The Council confirmed at the Hearing that about 76% of applications with a resolution to grant subject to a section 106 agreement included in their five year supply have now been issued. Whilst a

- proportion of these applications remain unsigned, I note that such sites have a 10% discount applied to them which appears reasonable to me. This buffer also allows for reduced delivery rates on sites recently granted outline planning permission, or sites in the early stages of construction such as on land at Bowbrook and Sutton Grange in Shrewsbury and Coppice Green Lane, Shifnal.
17. It has been put to me that the proposed delivery rates for the Shrewsbury and Oswestry Sustainable Urban Extensions (SUEs) are overly optimistic. The SUEs at Shrewsbury south and west are either under construction or subject to current planning applications. The time period allowed for the appropriate consents and suggested delivery rates appear to be reasonable in both cases. However, a planning application has yet to be submitted on land North of Shrewsbury Road, Oswestry. There are also potential land ownership issues with this site. It therefore appears somewhat optimistic for outline and reserved matters approval to be granted, conditions discharged and the first 25 dwellings to be constructed by the end 2017 as the Council suggests. Consequently, I have discounted the 25 units to be provided in 2016/17 from the Council's late November 2014 housing supply figure of 11,063 houses.
  18. In reference to older permissions, the Council has included a number of outline consents which are over three years old and have therefore expired. Some of these permissions were granted more than ten years ago and have not been superseded by full planning permissions. The Council's housing supply update confirms that sites at Ellesmere Wharf, the Royal Shrewsbury Hospital, Arrow County Services, Longden, Mill Green Lane, Knighton and Newcastle Road Market Drayton have either been constructed or benefit from extant planning permissions. However, on the basis of the evidence put before me I am unable to conclude that the remaining sites are still viable or available, offer a suitable location for development, and are achievable with a realistic prospect that housing will be delivered within five years. Therefore, I cannot conclude that any of these sites are deliverable. As such, I have deleted 39 dwellings in this category.
  19. From the other sites identified with potential delivery problems, I also note that the Former Dairy Site, School Road, Ruyton XI Towns is still in commercial use. Nevertheless, the Council's update has confirmed that this site has an extant planning permission. I have not therefore discounted the impact of this site (80 units) from supply.
  20. It has also been put to me that C2 units should not be included in the Council's 5 year supply figures, with affordable housing only counting if it has secure funding from the Homes and Community Agency (HCA). The Council confirmed that it only includes C2 accommodation if they are self-contained residential units, which appears to be a reasonable approach to me. Although the appellant has queried whether certain sites have HCA funding I have not been provided with any evidence to verify this. Furthermore, the Council's November 2014 update confirms that the Unicorn/Whittington Road site in Oswestry which benefits from HCA funding has not been included in their 5 year supply. This site would provide 53 units and therefore exceed the total number of affordable units referred to by the appellant. The site at Station Road, Dorrington which was dismissed on appeal has also been deleted from the Council's November 2014 figures.

21. The appellant has referred to the recent examination into the Cheshire East Local Plan where the Inspector stated that many local plan proposed allocations may be excluded from supply since they are not yet allocated or committed. Nevertheless, although it has been agreed that the SAMDev only attracts limited weight in the assessment of this appeal it is clearly at an advanced stage of preparation with the Inspector's report anticipated in April/May 2015.
22. Furthermore, I have not been supplied with specific details of the potential unresolved objections to certain selected allocations which the appellant indicates should not be considered. Nor, as confirmed by the Council at the Hearing, should small sites such as Schoolhouse Lane, Bishops Castle be discounted purely due to their relative proximity to the River Clun Special Area of Conservation. Consequently, the evidence provided by the Council provides an up to date assessment on the current status of many of these sites and the ones considered appropriate to include within the 5 year housing land supply. I am therefore satisfied on the basis of the evidence put before me that these sites are achievable and viable with a realistic prospect that housing will be delivered on the sites within five years.

#### *Housing conclusion*

23. In summary, the Council's five year housing requirement is 6,875. Accounting for the identified shortfall and implementation of the 20% buffer, and removing 25 dwellings from the total number of units to be delivered at the Oswestry SUE and 39 houses from sites with outline consent from the late November 2014 figure of 11,063 leaves a supply of 10,999 dwellings. This represents a surplus of 29 houses.
24. Therefore, from the evidence that was available to me, it appears that from the Council's perspective, they are able to demonstrate a 5 year supply deliverable housing land. Consequently, paragraph 49 of the Framework is not engaged and local plan policies relevant to the supply of housing are up-to-date, subject to their consistency with the Framework as set out in paragraph 215.

#### *Development plan*

25. Section 38(6) of the Planning and Compulsory Purchase Act 2004 and section 70(2) of the Town and Country Planning Act 1990 requires that applications for planning permission must be determined in accordance with the development plan unless material considerations indicate otherwise. The development plan comprises of the Shropshire Local development Framework Adopted Core Strategy 2011(CS) and certain policies of the Shrewsbury and Atcham Local Plan 2001 (LP) which have been saved following a Direction made by the Secretary of State.
26. I note that Ford has not been identified as a Community Hub or Cluster in the emerging SAMDev and Policy CS4 of the CS does not therefore apply in this case.
27. Policy CS5 states that new development will be strictly controlled in the countryside except for certain defined uses, none of which are subject to this proposal. It was agreed by the parties at the Hearing that these aims are broadly consistent with the countryside protection policies of the Framework. I concur with this assessment. Thus, as the proposed residential development

would be located in the open countryside it would conflict with Policy CS5 of the CS.

28. Policy CS6 of the CS seeks to create sustainable places. It requires development to be designed to a high quality using sustainable design principles, to achieve an inclusive and accessible environment which respects and enhances local distinctiveness. It also says that proposals likely to generate significant levels of traffic should be located in accessible locations where opportunities for walking, cycling and use of public transport can be maximised and the need for car based travel to be reduced.
29. This policy aligns closely with the core planning principles of the Framework that planning should; actively manage patterns of growth to make the fullest possible use of public transport, walking and cycling, focus significant development in locations which are or can be made sustainable, and recognise the intrinsic character and beauty of the countryside and supporting thriving rural communities within it.
30. Policy HS3 of the LP says that new housing development in specified settlements, including Ford, will only be permitted, providing amongst other things, the development lies wholly within the settlement. It therefore applies a more restrictive approach and is not therefore entirely consistent with the Framework's presumption in favour of sustainable development. This reduces the weight I attach to this policy in my assessment of this case.

#### *Sustainability and accessibility*

31. Ford is a small to medium sized settlement with the built form concentrated to the north of the A458. Many of the existing services and facilities serving the village are situated along this road which provides an important transport corridor between Shrewsbury and Mid-Wales. These services include a petrol station and large general convenience store which is open until 22:00, Indian restaurant, transport café, which also sells incidental goods such as newspapers and confectionary, and a public house. Ford also benefits from a primary school, village hall and parish church. Such facilities provide many of the essential services required to meet the basic daily needs of residents in the village. Nevertheless, they are concentrated to the east of the settlement with no direct route from the appeal site to these services.
32. As the appeal site is located towards the west of the village it does not immediately adjoin any of the above facilities. However, I have been provided with a plan identifying a number of potential routes that future occupiers of the site could utilise to access facilities in the village. The distances specified on this plan were agreed by the parties at the Hearing.
33. In terms of pedestrian links, the most direct route from the appeal site to facilities in the village would be via the public right of way which extends along the eastern boundary of the appeal site towards the A458. As this route is through farmland it would be unsuitable for those with limited mobility or with children in pushchairs. It is also unlit and does not include a defined footway making it unattractive for users at night or in inclement weather. Even following this route, future occupiers would have to travel at least 700 metres to access services in the village. For the above reasons, this route would not provide a viable option for all occupants of the scheme.

34. Immediately adjacent to the northern boundary of the appeal site is an existing footway and bridge over the brook, which links the land to Manor Crest. The indicative plans show a new pedestrian link connecting the appeal development to the footpath in Manor Crest. There are two potential routes for pedestrians to access services in the village in this direction. The first would be via Manor Crest and Crompton Mews, with the second following Manor Crest round to Butt Lane.
35. I observed that both routes are served by continuous footways and street lighting. However, neither option provides a direct route to facilities in the village. The first route involves travelling through a residential area and a covered walkway which extends underneath several dwellings. No signs demark this route and I had to be directed to the access onto Butt Lane by the appellant during my site visit. Although the bus stop at the junction of The Leasowes and Butt Lane is only about 250 metres from this direction, the school and general convenience store are 692 metres and 1.1 Kilometres away. The second option offers a circuitous route through Manor Crest onto Butt Lane. This also increases the distance to the school to 823 metres and general convenience store to 1.2 Kilometres.
36. I therefore conclude that a combination of the nature of both these routes and the distance to local services would not make them attractive to prospective occupiers of the appeal development. Alternatively, future occupants of the development could travel north along Bank Lane to access Butt Lane. However, this would add a further 250 metres to the total journey lengths referred to above.
37. The land on the appeal site gradually slopes down towards the brook, levelling out opposite the existing footway and bridge. This area in the north-east corner of the site, which on the indicative plans is shown to form part of a landscaped buffer, together with brook, bridge and footway is situated in flood zone 3. The parties were unable to confirm if this area is defined as zone 3a, land with a 1 in 100 or greater annual probability of river flooding or 3b, functional floodplain. Nevertheless, local residents and local Councillors have confirmed that this part of the site, the bridge, footpath and sections on Bank Lane often flood. In a flood event access to the footpath and bridge from the appeal site would not therefore provide a viable option for future occupiers of the scheme to access services in the village. Similarly, in times of flood it would not be possible to travel north along Bank Lane to access Butt Lane.
38. Alternatively, in the event of a flood, future residents could also travel south along Back Lane to access services on the A458. I recognise that Bank Lane appears to be a moderately trafficked road, and the appeal scheme would provide improved the necessary visibility splays, a modest section of footway along the site frontage and passing bays on the lane. However, despite these measures there would be no continuous footpath or street lighting on Back Lane. This would make the route less attractive for pedestrians.
39. Back Lane also provides access from the A458 to the village and contains several sharp bends restricting visibility. Such considerations and the significant additional vehicle movements associated with the appeal development could make this route less appealing for pedestrian users and cyclists. Moreover, following this route the school at about 1.1 kilometres and

the general convenience store approximately 1.3 Kilometres away would not be within reasonable walking distance of the appeal site.

40. It has also been suggested that an alternative pedestrian link could be provided through Leasowes Recreation Ground. Nevertheless, this option has been discounted due to the visual impact of a new bridge over the brook, the absence of lighting and the potential exit point over an existing vehicular access. For these reasons, the Parish Council as landowners would resist a potential new pedestrian route over this land. I have not therefore considered this option in reaching my decision.
41. In terms of public transport, I understand that both the Arriva bus service and the Shropshire Link Dial a Ride pre bookable scheme have been discontinued. Nevertheless, it was confirmed at the Hearing that Ford is served by two bus services, the 74 and X75 which provide a regular service between approximately 08:00 to 18:00 Mondays to Saturdays from Shrewsbury to Llantyllin. The X75 stops on the A548 adjacent to Butt Lane, with the route of the 74 passing through the village, with a bus stop located at the junction of The Leasowes and Butt Lane to the north of the settlement. Both services therefore provide a realistic alternative to the private motor vehicle for residents of Ford to access a range of facilities, potential employment opportunities and health care services available in Shrewsbury. However, although the bus stop is located within relatively close proximity to the site, it is not served by a direct footpath link, further reducing its connectivity with the village and its facilities.
42. In relation to vehicular access there are two potential routes to the appeal site. The most direct option is to exit the A548 onto Back Lane. The proposed access is only a short distance from this point when travelling by motor vehicle. Therefore, the site would be easily accessible from this direction. Alternatively, vehicles could leave the A458 at the junction with Butt Lane and travel through the village before entering the appeal site at the northern end of Bank Lane. I recognise that this route is longer and motorists would be required to negotiate school traffic at certain times of the day, the narrow bridge and section of Bank Lane which local residents have indicated occasionally floods. However, it still provides a potential alternative for motorists accessing the site. The provision of two routes to the site would also potentially distribute additional traffic movements associated with the development across the local road network.
43. Notwithstanding my conclusions with regards to vehicle access, the appeal development would effectively 'turn its back' on the existing village and would fail to provide an appropriate level of integration and connectivity with the existing settlement by means of access to services in Ford for both pedestrians and cyclists. It would not therefore provide an inclusive environment or be located where opportunities for walking, cycling and use of public transport can be maximised and the need for car based travel to be reduced. Consequently, the appeal scheme would conflict with Policy CS6 of the CS and the provisions of the Framework in this respect.

#### *Loss of agricultural land*

44. The appeal development would result in the loss of existing agricultural land. Paragraph 112 of the Framework says that local planning authorities should take into account the economic and other benefits of the best and most versatile agricultural land. Where significant development of agricultural land



is demonstrated to be necessary, local planning authorities should seek to use areas of poorer quality land in preference to that of a higher quality.

45. I observed during my site visit that the land appeared to have been used to grow crops. Despite the gently undulating levels, local residents also indicated that the field had been used for this purpose for some time. The Council state that the site is Grade 3 agricultural land. Paragraph 26 of the Planning Practice Guidance (PPG) confirms that Grade 3 land is divided into two sub-categories, 3a and 3b, with 3a defined as the best and most versatile agricultural land. The appellant was unable to clarify if the site represented grade 3a land. Therefore, on the basis of the evidence put before me I cannot rule out that the appeal scheme would result in the loss of a significant area of the best and most versatile agricultural land. This further weighs against the development.

#### *Character and appearance*

46. The appeal site immediately adjoins the built up form of the village. The development would therefore read as an extension to the existing settlement pattern rather than isolated development in the open countryside. Similarly, whilst the site directly adjoins the Ford Conservation Area, it is located away from the historic core of the settlement, which is concentrated to the north and west of village and is visually separated from the appeal site by modern housing development and the topography of the land. The development would thus preserve the character and appearance of the adjacent Conservation Area.
47. Nevertheless, the proposal would involve the development of existing agricultural land. Due to the scale and quantum of development proposed, on a site which is currently free from development, the appeal scheme would clearly impact on the character and appearance of the countryside. Although the design and appearance of the scheme are not matters to be determined under this appeal, the gradual rise in levels on site would also increase the visual impact and prominence of the proposal when viewed from the surrounding open countryside. This adds to the harm I have identified above.

#### **Overall Planning Balance**

48. Paragraph 7 of the Framework states that there are three dimensions to sustainable development: economic, social and environmental. These roles are mutually dependant and should be jointly sought to achieve sustainable development.
49. The Framework seeks to boost significantly the supply of housing. Given my conclusion of the Council's five year housing supply, however, the appeal site is not required to meet the area's identified housing need. Therefore, little weight can be attached to the release of this unallocated, greenfield site to meet housing need.
50. The proposal would generate substantial economic benefits during the construction phase and through the ongoing support for local businesses in Ford by future occupiers of the new dwellings. It would also provide additional income through the new Homes Bonus and Council Tax receipts. I attach moderate weight to these benefits.
51. Turning to the social aspects of sustainability, the scheme would provide on-site affordable housing to meet a recognised need in accordance with Policy CS11 of the CS and the Shropshire Local Development Framework Type and

Affordability of Housing Supplementary Planning Document 2012 (SPD). It would also represent chargeable development under the Council's Community Infrastructure Levy required to mitigate the effects of the proposal and thereby contributes towards infrastructure in the local area. I apportion moderate weight to such considerations.

52. In relation to the environment, the scheme would provide a large open area and through a subsequent reserved matters application could introduce enhancements to landscaping both within the site and on its boundaries. However, such measures would only serve to mitigate the harm that I have identified through the potential loss of the best and most versatile agricultural land and harm to the character and appearance of the countryside. Furthermore, the lack of connectivity and integration of the appeal scheme with the village would increase the reliance of the potential future occupiers of the development on the private motor vehicle, reducing the scope of more sustainable travel choices.
53. Boosting significantly the supply of housing will inevitably require housing to be built on some greenfield sites which will result in changes to local environments. Nonetheless, the policy conflict, shortcomings of the sites location in terms of accessibility and sustainability with the settlement, the potential loss of agricultural land and impact on the character and appearance of the countryside would significantly and demonstrably outweigh the acknowledged benefits of the proposal. I therefore conclude that the appeal should fail.

#### **Other Matters**

54. I recognise that local residents and the PC are of the view that there is no demand for either market or affordable housing in Ford following recent housing developments in the village. I am also mindful that the Parish Council (PC) have undertaken their own housing needs survey which demonstrated a limited demand for new housing in the area. Nonetheless, the Council confirmed at the Hearing that such provision locally does not negate the need or policy requirement for new affordable housing across the wider local area and County in general. I agree with this assessment as Policy CS11 of the CS and the Shropshire Local Development Framework Type and Affordability of Housing Supplementary Planning Document 2012 (SPD) identifies a clear need for affordable housing in Shropshire, and the requirement for all new residential development to contribute towards such provision.
55. It has been put to me that an extant planning permission for employment use, on land to the north-west of the appeal site could, if implemented add to vehicular movements on Back Lane. Nevertheless, no details have been provided of this permission, which I understand from the Council was granted some years ago. Therefore, I am unable to conclude, based on the available evidence, that the cumulative impact of the appeal scheme and this historic permission would adversely affect highway safety in the area.
56. Other concerns have been raised by local residents, the PC and the local Councillor regarding potential noise and disturbance from the proposed development to residents in Manor Crest, the effect on ecology and the potential impact on the local primary school which is operating at full capacity. I recognise that the appeal site occupies a slightly elevated position in relation to Manor Crest. However, the existing landscaping and area of open space

between the appeal site and these properties would help mitigate any noise generated from the proposed development. A landscaped buffer is also proposed on the northern part of the site, further reducing any impact to neighbouring occupiers.

57. The submitted Phase 1 Environmental Survey demonstrates that the development would not have a detrimental impact on protected species subject to the conditions recommended by the Council's Ecologist. Although it is suggested that there is currently no available space at the primary school for children connected with the proposed development, the situation could change by the time the scheme is completed. This matter does not therefore weigh against the proposal.

### **Unilateral Undertaking and the Community Infrastructure Levy**

58. A signed Unilateral Undertaking (UU) dated 30 January 2015 has been submitted which would secure contributions towards affordable housing. The appeal proposal would also represent chargeable development under the Council's Community Infrastructure Levy (CIL) which would help mitigate the impact of the scheme if permission were granted. However, given my conclusions on the appeal, there is no need for me to consider the matter further.

### **Conclusion**

59. For the reasons set above, and having regard to all other matters raised, including the scope of possible planning conditions, I conclude that the appeal should be dismissed.

*T Cannon*

INSPECTOR

## **APPEARANCES**

### FOR THE APPELLANT:

Mrs Bicknell	Les Stephan Planning Ltd
Mr M Parrish	The Planning Group Limited and Principal of Oak Street Properties Ltd
Mr D Richards	The Planning Group Limited
Mrs H Howie	Berrys

### FOR THE LOCAL PLANNING AUTHORITY:

Mr T Rogers	Area Planning Manager Shropshire Council
Mr D Wallace	Senior Specialist Planning Policy Shropshire Council
Mrs N Brown	Technical Specialist Planning Officer Shropshire Council
Councillor R Evans	Councillor Shropshire Council

### INTERESTED PARTIES

Mr R Blyth	Vice Chair, Ford Parish Council
Mr S Courtney	Local Resident, 69 The Leasowes, Ford, SY5 9LU

## **DOCUMENTS SUBMITTED AT THE HEARING**

1. A signed copy of addendum to Statement of Common Ground
3. Plan showing the extent of Flood Zone 3
4. Plan identifying Ford development boundary in the Shrewsbury and Atcham  
Local Plan 2001
5. Plan indicating different potential routes, including distances to facilities in Ford
6. Policy HS3 of the Shrewsbury and Atcham Local Plan 2001
7. Policy CS10 of the Shropshire Local Development Framework: Adopted Core  
Strategy 2011
8. Appendix 3 to Shropshire Five Year Housing Land Supply Statement