

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

Date: Monday, 24th August 2015

Committee:
North Planning Committee

Date: Wednesday, 2 September 2015

Time: 2.00 pm

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

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

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

Members of the Committee

Arthur Walpole (Chairman)
Paul Wynn (Vice Chairman)
Joyce Barrow
John Cadwallader
Gerald Dakin
Steve Davenport
Pauline Dee
Vince Hunt
David Lloyd
David Minnery
Peggy Mullock

Substitute Members of the Committee

Nicholas Bardsley
Karen Calder
Steve Charmley
Peter Cherrington
Andrew Davies
Ann Hartley
Simon Jones
Brian Williams
Thomas Biggins
Roger Hughes
VACANCY

Your Committee Officer is:

Emily Marshall Committee Officer

Tel: 01743 257717

Email: emily.marshall@shropshire.gov.uk

AGENDA

1 Apologies for Absence

To receive apologies for absence.

2 Minutes (Pages 1 - 8)

To confirm the Minutes of the meeting of the North Planning Committee held on Tuesday, 4th August 2015, attached, marked 2.

Contact Shelley Davies on 01743 257718.

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 Land South Of Hollins Lane, Newport Road, Woodseaves, Market Drayton (15/00924/EIA) (Pages 9 - 36)

Erection of two poultry sheds and feed bins, ancillary works including access track and associated landscaping works.

6 Land South Of Hollins Lane Newport Road Woodseaves Market Drayton (15/01108/MAW) (Pages 37 - 62)

Installation of an 800kW agricultural Anaerobic Digester (AD) Plant and associated infrastructure.

7 Land Off A49 Hadnall Shropshire (14/03995/OUT) (Pages 63 - 72)

Outline application (access for approval) for residential development of up to forty dwellings, the provision of public open space and car park and restoration of moated site (amended description).

8 Land North of Norton Farm, Main Road, Norton in Hales, Shrewsbury (14/00260/FUL) (Pages 73 - 82)

Outline application for the erection of 14 detached dwellings.

9 Storage Land And Premises (former Dairy), Mile Bank Road, Whitchurch, Shropshire (13/03481/OUT) (Pages 83 - 92)

Outline application (all matters reserved) for residential development; vehicular access and estate roads; diversion of Public Right of Way; associated highway and landscape works

10 Mill House, Stanton Upon Hine Heath (SC/00228/15) (Pages 93 - 126)

To confirm the Provisional Tree Preservation Order relating to Mill House, Stanton Upon Hine Heath, TPO 2015.

11 Appeals and Appeal Decisions (Pages 127 - 154)

12 Date of the Next Meeting

To note that the next meeting of the North Planning Committee will be held at 2.00 pm on Tuesday 29th September 2015, in the Shrewsbury/Oswestry Room, Shirehall, Shrewsbury.

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Committee and Date

North Planning Committee

2nd September 2015

NORTH PLANNING COMMITTEE

Minutes of the meeting held on 4 August 2015

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

2.00 - 4.20 pm

Responsible Officer: Shelley Davies

Email: emily.marshall@shropshire.gov.uk Tel: 01743 257718

Present

Councillor Arthur Walpole (Chairman)

Councillors Joyce Barrow, John Cadwallader, Steve Davenport, Pauline Dee, David Lloyd and Peggy Mullock

33 Apologies for Absence

Apologies for absence were received from Councillors Gerald Dakin, Vince Hunt, David Minnery and Paul Wynn.

34 Minutes

That the Minutes of the meeting of the North Planning Committee held on 7th July 2015 be approved as a correct record and signed by the Chairman.

35 Public Question Time

There were no public questions, statements or petitions received.

36 Disclosable Pecuniary Interests

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

37 Land Adj To The Builders Yard Known As No. 8 Barkers Green, Wem - 15/01036/FUL

The Principal Planning Officer introduced the application for the change of use of land for the stationing of caravans for residential purposes for 1no. gypsy pitch together with the formation of hardstanding and a utility/dayroom ancillary to that use. The Principal Planning Officer confirmed that the Committee had undertaken a site visit that morning to assess the impact of the proposed development on the surrounding area and reported that Severn Trent Water had confirmed that the proposed surface and foul water drainage was satisfactory and they had no objection to the application.

Mr David Collier, on behalf of local residents spoke against the proposal in accordance with Shropshire Council's Scheme for Public Speaking at Planning Committees.

Councillor Leonard Staines, on behalf of Wem Rural Parish Council spoke against the proposal in accordance with Shropshire Council's Scheme for Public Speaking at Planning Committees.

Mr Nathaniel Green, Agent on behalf of the applicant spoke in support of the proposal in accordance with Shropshire Council's Scheme for Public Speaking at Planning Committees.

In accordance with the Local Protocol for Councillors and Officers dealing with Regulatory Matters (Part 5, Paragraph 15.1) Councillor Pauline Dee, as local ward councillor, made a statement and then left the room, took no part in the debate and did not vote on this item. During her statement, the following points were raised:

- The application was 1.9 miles from the nearest settlement of Wem;
- The proposed site was next to a builders yard which was a potential noise nuisance for future occupants;
- Previous planning applications on the site for residential development had been refused;
- There was no local need for the proposal; and
- There were drainage problems in Barkers Green.

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

- The site was in open countryside where development would not normally be permitted;
- There were drainage issues in the area with water currently on the proposed site;
- There were vacancies on existing gypsy sites in the area;
- There was no footpath to link the site to the nearest settlement of Wem; and
- The application was contrary to policy CS4 and CS5 of the Core Strategy and the NPPF.

In response to queries in relation to gypsy/traveller sites the Senior Policy Officer clarified that there was separate policy guidance for traveller sites and as this application had been applied for under bullet point 2 of paragraph 12 of the Core Strategy there was no requirement for the applicant to prove a local connection. It was added that occupation of the site was limited to a person of gypsy/traveller status.

During the ensuing debate, concerns were raised by some Members in relation to the site being located in open countryside and that the proposal would harm the character of the area.

RESOLVED:

That planning permission be granted, in accordance with the Officer's recommendations and subject to the conditions set out in Appendix 1, of the Officer's report.

38 Land adjoining 8A St Martins Moor - 13/05016/OUT

The Principal Planning Officer introduced the report which was an addendum to a previous report on 11th March 2015, when outline approval for the erection of 2 no. detached dwellings (all matters reserved) had been granted. Members' attention was drawn to the schedule of additional letters which referred to the written ministerial statement regarding affordable housing contributions.

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

- The density of the proposed development was not appropriate;
- There was a lot of local opposition to the application;
- The site was very wet; and
- The access to the site was inadequate.

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

RESOLVED:

That planning permission be granted subject to the completion of a Section 106 agreement in relation to the financial contribution for affordable housing and the conditions set out in Appendix 1 of the original committee report.

39 Proposed Residential Development Land South East of Childs Ercall - 14/03006/OUT

The Principal Planning Officer introduced the report which was an addendum to a previous report on 29th September 2014, when outline approval for the erection of 2 detached dwellings; to include means of access had been granted. Members' attention was drawn to the schedule of additional letters which referred to the written ministerial statement regarding affordable housing contributions and a further letter of objection from the Parish Council.

Mr Peter Richards, Agent on behalf of the applicant spoke in support of the proposal at the Chairman's discretion.

During the ensuing debate, the Committee whilst acknowledging the potential benefits that housing would bring, considered that the site was clearly located

outside the development boundary and had not been identified as a site for future residential development within the emerging SAMDev Plan.

Having considered the submitted plans for the development the majority of Members expressed their objection to the application contrary to the Officers recommendation.

RESOLVED:

That planning permission be refused against Officer's recommendation for the following reasons:

The Committee noted that the site was clearly outside the development boundary for Childs Erccall and had not been identified as a site for residential development within the emerging SAMDev Plan and, in view of the stage the plan has now reached, very significant weight was given to this; they also acknowledged the potential benefits that housing would bring and gave weight to this but did not consider that these benefits, or any other material considerations, would outweigh the emerging plan or the policy support for a plan led approach. As such the development of the site would be contrary to policy CS4 and CS5 of the Core Strategy, policy S8.2 of the SAMDev and the NPPF.

40 Proposed Development Land North East of Cemetery, Swan Hill, Ellesmere - 15/00291/OUT

The Principal Planning Officer introduced the outline application for residential development to include means of access and confirmed that the Committee had undertaken a site visit that morning to assess the impact of the proposed development on the surrounding area. The Principal Planning Officer confirmed that the Highways Officer had not raised any objection to the application and drew Members' attention to the additional comments received from the applicant and Councillor Ann Hartley, local ward councillor.

Councillor Geoff Elner, on behalf of Ellesmere Town Council spoke against the proposal in accordance with Shropshire Council's Scheme for Public Speaking at Planning Committees.

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

RESOLVED:

That planning permission be refused, in accordance with the Officer's recommendation for the following reason:

The proposed scheme would provide economic and social benefits including: the provision of a new homes and construction jobs, however, these benefits would be achieved regardless of where the new dwellings would be built. Also, any future occupants would play a role in the community and would be likely to support local services. Future occupiers would have convenient access to the extensive facilities in Ellesmere. However, this must be balanced against the harm that would be caused to the setting of The Mere, Cremorne Gardens, the street scene in Swan Hill, and the setting of the adjacent conservation area which weighs negatively against the

proposal. It is considered that the proposal conflicts both with Policy H5 of the North Shropshire Local Plan and CS Policies CS3 and CS5 of the adopted Core Strategy and with the Council's overall strategic approach to delivering sustainable development through the identification of suitable housing sites in the emerging SAMDev DPD.

41 **Land East Of Tarporley Road, Whitchurch - 15/00433/OUT**

The Principal Planning Officer introduced the outline application (access for approval) for residential development; formation of new vehicular access to include removal of trees and confirmed that the Committee had undertaken a site visit that morning to assess the impact of the proposed development on the surrounding area. The Principal Planning Officer drew Members' attention to the schedule of additional letters and the additional comments received from Councillor Tom Biggins, local ward councillor.

In accordance with the Local Protocol for Councillors and Officers dealing with Regulatory Matters (Part 5, Paragraph 15.1) Councillor Peggy Mullock as local ward councillor, made a statement and then left the room, took no part in the debate and did not vote on this item. During her statement, the following points were raised:

- The density of the proposed development was not appropriate; and
- The proposal would adversely affect the street scene of Tarporley Road.

During the ensuing debate, Members agreed that the principle of development on the site was acceptable but considered that the scale and design of the proposal as detailed on the indicative layout plan was not appropriate and requested that the application for reserved matters be determined by this Committee.

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

RESOLVED:

That delegated powers be given to the Area Planning Manager to grant approval, subject to

- The satisfactory resolution of the outstanding archaeological issues;
- The conditions set out in Appendix 1;
- The applicant entering into a S106 agreement to secure an affordable housing contribution; and
- The application for reserved matters being considered by the North Planning Committee.

42 **Meadowland, Sleaf, Harmer Hill, Shrewsbury - 15/01921/EIA**

The Principal Planning Officer introduced the application for the erection of a poultry building, an expansion of the existing poultry business on site.

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

RESOLVED:

That planning permission be granted in accordance with the Officer's recommendation, subject to the applicants entering into a S106 agreement to secure a financial contribution for road improvement works and the conditions set out in Appendix 1.

43 Meadowland, Sleaf, Harmer Hill, Shrewsbury, - 15/01937/EIA

The Principal Planning Officer introduced the application for the erection of a poultry building, an expansion of the existing poultry business on site.

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

RESOLVED:

That planning permission be granted in accordance with the Officer's recommendation, subject to the applicants entering into a S106 agreement to secure a financial contribution for road improvement works and the conditions set out in Appendix 1.

44 Meadowland, Sleaf, Harmer Hill, Shrewsbury - 15/01938/EIA

The Principal Planning Officer introduced the application for the erection of a poultry building, an expansion of the existing poultry business on site.

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

RESOLVED:

That planning permission be granted in accordance with the Officer's recommendation, subject to the applicants entering into a S106 agreement to secure a financial contribution for road improvement works and the conditions set out in Appendix 1.

45 Appeals and Appeal Decisions

RESOLVED:

That the appeals and appeal decisions for the northern area be noted.

46 Date of the Next Meeting

It was noted that the next meeting of the North Planning Committee would be held at 2.00 pm on Wednesday 2nd September 2015, in the Shrewsbury/Oswestry Room, Shirehall, Shrewsbury.

Signed (Chairman)

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Date:

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Committee and Date
 North Planning Committee
 2nd September 2015

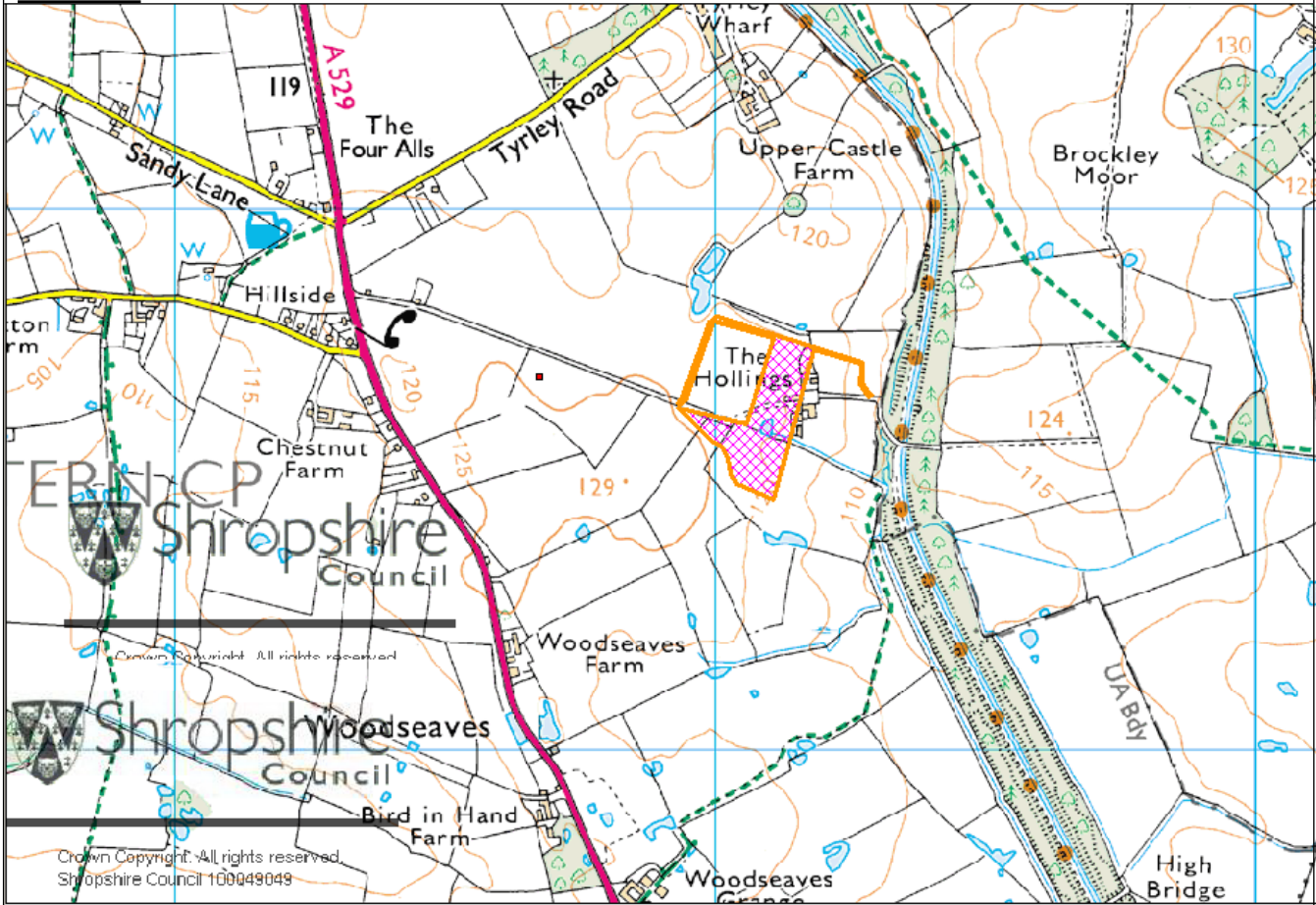
Item
5
 Public

Development Management Report

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

Summary of Application

Application Number: 15/00924/EIA	Parish: Sutton Upon Tern
Proposal: Erection of two poultry sheds and feed bins, ancillary works including access track and associated landscaping works	
Site Address: Land South Of Hollins Lane Newport Road Woodseaves Market Drayton	
Applicant: HLW Farms Ltd	
Case Officer: Kelvin Hall	email: planningdmc@shropshire.gov.uk
Grid Ref: 368674 - 331691	



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Recommendation: That Members delegate authority to the Planning Manager to grant planning permission for the proposed development subject to the conditions as set out in Appendix 1 and subject to satisfactory resolution of issues relating to the potential impact of the proposals on the environment from ammonia emissions.

REPORT

1.0 THE PROPOSAL

- 1.1 The planning application seeks permission for the erection of four poultry sheds on land to the east of Hollins Lane, Woodseaves, Market Drayton. Each shed would measure 116 metres x 24 metres, with an eaves height of 3 metres and a ridge height of 5.6 metres. Fans would extend above the ridge to a height of 6.4 metres. The sheds would be aligned in two parallel rows, with each pair connected by a central cover access, giving the impression of two parallel long sheds. The sheds would be of standard construction comprising portal steel-framed buildings with box profile sheet cladding to the sides and roof. The application proposes that the sheds are finished in Juniper Green colour.
- 1.2 In addition to the sheds, 12no. feed bins would be erected at the outer ends of the four sheds, in four sets of three. These would each measure 6.6 metres in height and 2.8 metres in diameter. Other development would include the provision of concrete hardstanding around the sheds for vehicle manoeuvring purposes, and a new length of hard core track to link the site to Hollins Lane and to an existing track leading east across the Shropshire Union Canal.
- 1.3 The buildings would be ventilated by a computer controlled mechanical system, with roof mounted variable speed fans. The buildings would be heated using biomass boilers fuelled by the solid element of the digestate produced by the anaerobic digester being proposed on adjacent land. Each shed would have a low wattage, low intensity light above the openings to allow safe working during normal working hours during the winter. Additional lighting may be required during the removal of birds but this would be low intensity lighting to avoid unnecessary stress to the birds.
- 1.4 Summary of production cycle: Each shed would house approximately 65,000 birds. The broilers would be brought to the site as day old chicks, and would enter the pre-warmed sheds. At the end of the 35-36 day growth cycle the chickens would be collected and transported to a processing plant. The buildings would be cleaned and this would involve dry cleaning to remove organic material, wash down and disinfecting. The sheds would be empty for an average of ten days before being re-stocked. There would be on average around seven crop cycles per year.
- 1.5 The application accompanies a separate application for an anaerobic digester (AD) plant on adjacent land to the west (ref. 15/01108/MAW).

2.0 SITE LOCATION/DESCRIPTION

- 2.1 The application site is located approximately 2.5km to the south-east of Market Drayton, and approximately 500 metres to the east of Woodseaves. The application site (3.5 hectares) and surrounding land is currently in agricultural use, the land being used for the growing of miscanthus grass. Access to the site would be gained via Hollins Lane, a private access road approximately 620 metres in length that connects to the A529 to the

west. The nearest properties are those at Tyrley Farm, approximately 400 metres to the north. Other residential properties in the area include those along the A529 to the west, the nearest being 450 metres to the south-west; a property along Hollins Lane (owned by the applicant) approximately 530 metres to the west; and properties along Tyrley Road approximately 600 metres to the north-west.

2.2 A number of ponds are located in the surrounding area, the nearest being approximately 45 metres to the north. The Shropshire Union Canal runs in a generally north-south orientation approximately 175 metres to the east. This section of the canal is designated as a Conservation Area. Public rights of way in the area include a footpath to the south-east, approximately 165 metres to the south-east, and a footpath along the towpath of the canal to the east. The nearest Listed Building a Grade II Listed canal bridge, approximately 185 metres to the east. Further afield, there is a Grade II Listed direction post adjacent to the canal, approximately 470 metres to the north-east. The Tyrley Cutting SSSI, designated for geological interest, is located approximately 520 metres to the south-east. Tyrley Spoil Banks, a Local Wildlife Site designated by the Staffordshire Wildlife Trust, is located approximately 155 metres to the east.

2.3 The application site lies close to the Shropshire – Staffordshire border, approximately 120 metres to the east.

3.0 REASON FOR COMMITTEE DETERMINATION OF APPLICATION

3.1 The proposals comprise Schedule 1 EIA development so a committee decision is mandatory under the Council's Scheme of Delegation.

4.0 COMMUNITY REPRESENTATIONS

4.1 Consultee Comments

4.1.1 **Sutton upon Tern Parish Council** Objects, on the following grounds:

1) Proposed location of units: Councillors queried why the units are being sited 2.5 miles away from Old Springs Farm. Personnel will require to be on site, adjacent to the units, and the current proposed location does not allow for this.

2) Close proximity to a number of sensitive receptors: Councillors agreed a more suitable location could be found on the applicant's land;

3) Highways concerns - Increase in volume of traffic;

4) Close proximity to listed buildings;

5) Neighbouring properties share a borehole for their water supply: local residents are extremely concerned about contamination of their water supply which has already registered a high level of nitrates and possible over-use by the proposed businesses which may result in a long term problem for resident users;

6) Close proximity to an SSSI - the canal area;

7) Loss of residential amenity for neighbouring properties;

- 8) Concerns over air quality pollution due to emissions from the units
- Siting the complex so close to residents gives rise to serious health concerns due to the significant levels of bio aerosol/particulate emissions;

9) Health/noise/smell issues -The proximity will exacerbate the nuisance caused by the noise and clamour for the duration of night time harvesting every 6/7 week cycle and the dust and odour created during the cleaning cycle over the same duration and frequency. The proximity of the site magnifies the nuisance caused by dust, odours, flies and vermin. The associated storage and potential spreading of waste is a combination factor in assessing the residential amenity impact. The cycle cleaning of the broiler houses (2/3 days) and faecal litter removal will result in dust clouds and odour, untenable to residents. (Refs: CS5.4.72, 4.74, CS6 Environmental/Health);

- More suitable sites available
- Proposal is contrary to CS6, CS5 and CS17

ix: Strength of local objections; Human Rights Protocol Article 8 gives the right to respect for private and family life and 1st Protocol Article 1 allows for peaceful enjoyment of possessions: First protocol Article 1 stipulates that the desires of the landowners must be balanced against the impact on residents.

4.1.2 **Loggerheads Parish Council (adjacent Parish Council, in Staffordshire)** Strongly objects to this application on the following grounds:

- 1) Highways concerns - Increase in volume of traffic on narrow country lanes which already have conditions imposed;
- 2) Close proximity to listed buildings - inappropriate in the proposed location;
- 3) Neighbouring properties share a borehole for their water supply which is located close to the proposed development : local residents are extremely concerned about contamination of their water supply which has already registered a high level of nitrates and possible over-use by the proposed businesses which may result in a long term problem for resident users;
- 4) Close proximity to an SSSI - Tyrley canal/locks;
- 5) Loss of residential amenity for neighbouring properties;
- 6) Strength of local objections;
- 7) The close proximity of the proposed site to sensitive receptors magnifies the nuisance caused by dust, odours, flies and vermin.

4.1.3 **Environment Agency** No objections.

Environmental Permitting Regulations: Intensive pig and poultry sites are regulated by us under the Environmental Permitting (England and Wales) Regulations (EPR) 2010. Farms that exceed capacity thresholds >40,000 birds require an Environmental Permit (EP) to operate. For completeness, the total number of bird places proposed (260,000 broilers) would exceed the capacity thresholds and require an EP to operate. We have

not yet received an EP application for this proposal. We normally recommend the ‘twin tracking’ of the EP application alongside the planning application. The ‘twin tracking’ of applications allows for a more comprehensive submission. A cross reference with the permit requirements (those affecting land use decisions) would help demonstrate “the development itself is an acceptable use of the land” (NPPF, paragraph 120).

For information, we have recently provided the applicant with an initial ammonia screening assessment as part of a pre-permit application consultation. The report identifies the need for ammonia modelling prior to any EP application due to the close proximity of the proposed development to a Local Wildlife Site (LWS). We have advised the applicant to contact Shropshire Wildlife Trust to find out why the site was designated and whether there are any species which may be impacted by aerial ammonia emissions.

Under the EPR the EP and any future variations cover the following key areas of potential harm:

- Management – including general management, accident management, energy efficiency, efficient use of raw materials, waste recovery and security;
- Operations – including permitted activities and operating techniques (including the use of poultry feed, housing design and management, slurry spreading and manure management planning);
- Emissions – to water, air and land including to groundwater and diffuse emissions, transfers off site, odour, noise and vibration, monitoring; and
- Information – including records, reporting and notifications.

Development Proposals: Key environmental issues that are covered in the EP include odour, noise, ammonia, bio-aerosols and dust. These relate to any emissions that are generated from within the EP installation boundary.

Based on our current position, we would not make detailed comments on these emissions as part of the planning application process.

As part of the EP application it is the responsibility of the applicant to undertake the relevant risk assessments and propose suitable mitigation to inform whether these emissions can be adequately managed. For example, management plans may contain details of appropriate ventilation, abatement equipment etc.

Should the site operator fail to meet the conditions of an EP we will take action in-line with our published Enforcement and Sanctions guidance.

For the avoidance of doubt we would not control any issues arising from activities outside of the EP installation boundary. Your Council’s Public Protection team may advise you further on these matters.

Water Management: The Water Framework Directive (WFD) waterbody in closest proximity to the proposed development site is the ‘Coal Brook - source to confluence of River Tern’ (Waterbody Reference GB109054055110), which is classified as a ‘good’ waterbody. Any development should not cause deterioration in the WFD water quality classification.

Clean surface water can be collected for re-use, disposed of via soakaway or discharged

directly to controlled waters. Dirty water e.g. derived from shed washings, is normally collected in dirty water tanks via impermeable surfaces, as proposed. Any tanks proposed should comply with the Water Resources (control of pollution, silage, slurry and agricultural fuel oil) Regulations 2010 (SSAFO). Yard areas and drainage channels around sheds are normally concreted.

Shed roofs that have roof ventilation extraction fans present, may result in the build up of dust which is washed off from rainfall, forming lightly contaminated water. The EP will normally require the treatment of roof water, via swales or created wetland from units with roof mounted ventilation, to minimise risk of pollution and enhance water quality. For information we have produced a Rural Sustainable Drainage System Guidance Document, which can be accessed via: <http://publications.environment-agency.gov.uk/PDF/SCHO0612BUWH-E-E.pdf>

Flood Risk (Surface Water): Based on our 'indicative' Flood Map for Planning (Rivers and Sea), the proposed site is located within Flood Zone 1 which comprises of land assessed as having a less than 1 in 1000 annual probability of river flooding (<0.1%). In considering surface water run-off, the Environmental Impact Assessment (EIA) includes a 'Flood Risk and Drainage Assessment' by Woodsyde Developments Ltd (Appendix 9 and Chapter 13 of the ES). For applications subject to EIA we wish to provide 'strategic' surface water comments. We would recommend that your Flood and Water Management team are consulted on the detail of the surface water drainage proposals, as the Lead Local Flood Authority (LLFA). We acknowledge the proposals incorporate SuDS (sustainable drainage systems) in the form of trench soakaways and an attenuation pond limited to greenfield run-off rate for events up to a 1 in 100 year plus climate change (20% allowance) design standard.

We note that Appendix 9 and Chapter 13 of the ES make reference to a low risk of groundwater flooding; we would leave the detail of this for consideration by the LLFA.

Manure Management (storage/spreading): Under the EPR the applicant will be required to submit a Manure Management Plan, which consists of a risk assessment of the fields on which the manure will be stored and spread, so long as this is done so within the applicants land ownership. It is used to reduce the risk of the manure leaching or washing into groundwater or surface water. The permitted farm would be required to analyse the manure twice a year and the field soil (once every five years) to ensure that the amount of manure which will be applied does not exceed the specific crop requirements i.e. as an operational consideration. Any Plan submitted would be required to accord with the Code of Good Agricultural Policy (COGAP) and the Nitrate Vulnerable Zones (NVZ) Action Programme where applicable. The manure/litter is classed as a by-product of the poultry farm and is a valuable crop fertiliser on arable fields.

Separate to the above EP consideration, we also regulate the application of organic manures and fertilisers to fields under the Nitrate Pollution Prevention Regulations. We can confirm that the proposed site (as shown on the site plan submitted) is located within a NVZ.

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.

4.1.4 Natural England No specific concerns raised.

The application does not appear to fall within the scope of the consultations that Natural England would routinely comment on. The lack of specific comment from Natural England should not be interpreted as a statement that there are no impacts on the natural environment, but only that the application is not likely to result in significant impacts on statutory designated sites, landscapes. It is for the local authority to determine whether or not this application is consistent with national or local policies on biodiversity and landscape in consultation with other bodies and individuals.

Protected species: We have not assessed this application and associated documents for impacts on protected species. Standing advice should be referred to.

Local sites: If the proposal site is on or adjacent to a local site, e.g. Local Wildlife Site, Regionally Important Geological/Geomorphological Site (RIGS) or Local Nature Reserve (LNR) the authority should ensure it has sufficient information to fully understand the impact of the proposal on the local site before it determines the application.

Impact Risk Zones for Sites of Special Scientific Interest: Further advice offered in relation to Impact Risk Zones (IRZs) for Sites of Special Scientific Interest (SSSIs).

4.1.5 Historic England No specific comments. The application should be determined in accordance with national and local policy guidance, and on the basis of the Council's specialist conservation advice.

4.1.6 Canal and River Trust No objections, subject to conditions.

Drainage: We note that surface water from the development is proposed to discharge into an attenuation pond, and from there into an existing watercourse to the east of the site. Outfall to the watercourse is to be restricted to greenfield rates. This watercourse runs close to the top of Woodseaves Cutting, a deep cutting alongside the Shropshire Union Canal.

There are already stability issues with this cutting as a consequence of groundwater drainage, and therefore it is essential that the rate and amount of water discharging to the watercourse is not increased, as this could create a risk of further instability in the cutting. As you are aware, land stability is a material planning consideration and is referred to in paragraphs 120-121 of the NPPF and is the subject of more detailed discussion in the NPPG. We therefore consider that it is important that planning conditions are imposed to secure the provision of appropriate arrangements to ensure that discharges to the watercourse are restricted to greenfield rates.

We also note that a sewage treatment plant is also to be installed and that final effluent from this will also go to this watercourse. We would suggest that further details about the

arrangements for this discharge, including both the volume and rate of discharge, are needed. We would also comment that it would not be appropriate for any discharge pipe to be located above the water level in the watercourse. We would suggest that this matter could be readily controlled via a planning condition to secure the detailed arrangements (see condition in Appendix 1).

We note that it is suggested that residual dirty water collected from washing down will be spread on the applicant's land, although it is not specified where. We would ask that details of these arrangements are also secured by condition so that the potential impact of the amount of water and the location it is to be spread over can be assessed, in the interests of minimising the risk of pollution of the local water environment (see condition in Appendix 1).

We would also comment that it is essential that the water supply from the Tyrley Borehole is not adversely affected. We would ask that the Local Planning Authority considers the potential impact of the proposal on this borehole and either ensures that this issue is addressed prior to determination of the application, or if appropriate, imposes planning conditions to secure adequate protection measures for the borehole if planning permission is granted.

Odour/Noise: We note that the noise assessment submitted with the application does not appear to have considered the canal and its users as being a noise sensitive receptor, nor does the potential impact of odour on canal users appear to have been assessed. We would ask that the Local Planning Authority considers these matters and whether the submitted Environmental Statement provides sufficient information on these matters to be sure that the canal and its users will not be adversely affect by noise or odour, or that adequate mitigation of any adverse impacts can be achieved. Should you consider that further information is necessary, we would ask that we are consulted again on any details as may be submitted.

- 4.1.7 **SC Highways** No objections, subject to conditions. Additional information from the applicant's agent seeks to clarify the position of the current two applications under consideration and in relation to the previous planning consent 11/04052/FUL for a building in connection with miscanthus pelleting operations.

It is noted also that both application site red lined areas have been amended to now include the access road to the A529. The access road leading to the site has in part been constructed in accordance with the 11/04052/FUL planning permission and subsequent discharge of conditions application 13/04495/DIS. Those approved access details could have been included as part of the two current applications to provide clarity to the current applications.

It is understood that the applicant currently farms 2000 acres of land of which 1,500 is owned and 500 acres is rented. No information is provided regarding the current crop of miscanthus being grown although the AD Plant application submission indicates that 500 acres of the applicant's landholding would be required to produce the feedstock into the AD Plant together with the poultry manure produced by the broiler units. On the basis that the miscanthus building has not been developed but that miscanthus is being grown on the applicant's landholding, it is being harvested and taken away and no different therefore to any other crop grown on the land.

It has now been clarified that the proposed AD Plant building sits on the land formerly proposed to site the miscanthus production building. In effect therefore one would supersede the other, although the likelihood is that as the AD Plant and poultry unit compliment one another, as has happened on other sites around the County, the highway authority would not contest the comments set out by Berrys in the latest supporting information which indicates the applicants intentions to pursue the AD Plant and not the miscanthus building. The fact is that the AD Plant building and permitted miscanthus building cannot coexist on the same site and should the applicant wish to pursue both, this would require a further planning application and assessment of the cumulative impact in traffic terms.

Having considered the traffic movements in connection with the current 2 applications for the AD Plant and poultry units, the highway authority consider that the traffic generated can be accommodated on the local highway network. Moreover, the highway authority advise that a highway objection to these proposals is not defensible.

The highway authority therefore raise no objection to the granting of consent to both applications subject to conditions (see Appendix 1).

- 4.1.8 **SC Drainage** The drainage report and FRA are acceptable in principle, however, no drainage calculations have been provided. Details of proposed drainage can be dealt with by planning condition if permission is granted (see condition in Appendix 1).
- 4.1.9 **SC Public Protection** No objections. It is not considered that noise or odour are likely to have a significant detrimental impact on the amenity of the area. No further comment on these issues as a permit will cover noise and odour. The permitting regime must be presumed to be effective and therefore the planning system must allow full control under this regime for pollutants to air, land and water including odour and noise.

Additional comments made in response to comments of the Environmental Health team of Newcastle under Lyme Borough Council:

As the units are for producing chickens for meat each crop will take around 35 days to reach maturity upon which the shed is cleaned down prior to a new stock of day old chicks being brought on site. The bedding inside the unit is around 2cm of dry miscanthus brought in at the start of the cycle. Moisture is required in order to allow fly eggs and larvae to successfully develop. Moisture is introduced through the drinkers, for which a nipple fed system is proposed in this instance which reduces spillage, and chicken droppings. It is not considered that it is likely that the environment will be conducive to supporting fly eggs and larvae. Further to this there is no deep pit system and therefore the chickens are likely to feed upon any fly larvae that may be present ensuring that there is adequate control of flies inside the poultry units.

With regards to manure storage the manure will be stored close to the poultry buildings and anaerobic digester and will be fed into the anaerobic digester as feed stock. Having visited anaerobic digesters with poultry manure stockpiled for feed stock into the renewable energy process instances where flies were in sufficient numbers to cause an issue have not been encountered, and manure with any significant numbers of fly larvae within them has not been seen. Further to this stockpiles of manure in the open form a crust when left uncovered which stops flies being able to deposit eggs into the medium. When stockpiles are covered temperatures are increased to levels which prohibit the development of the fly larvae and eggs.

There are a significant number of poultry units within the Local Planning Authority area of Shropshire Council. Occasional fly nuisance complaints have been raised in the past which have typically related to deep pit systems or large manure stockpiles left in fields until required for spreading. As neither of these conditions would occur it is concluded that there is no need for any condition to be placed in relation to the control of flies. Furthermore should any fly issues arise powers are available to address these upon investigation of a statutory nuisance.

In relation to lighting, it is considered that an informative is added in preference to a condition, to inform the applicant of the considerations that are required when looking to install external lighting (see Appendix 1).

Light can be addressed through statutory nuisance powers should the need arise ensuring protection should any issues arise however the Public Protection team is not aware of poultry units causing light nuisance issues within Shropshire and therefore it is not considered necessary to recommend a condition regarding lighting.

4.1.10 **SC Archaeology** Recommends a condition.

The proposed development comprises a poultry farm comprising two broiler sheds and feed bins, together with associated ancillary works including access track and landscaping. It will be sited immediately to the east and serviced by a proposed 800kW agricultural anaerobic digester plant and associated infrastructure (application ref. 15/01108/MAW). The poultry units will also be constructed on the site of a former farmstead – The Hollings – which on present evidence is understood to date from the 18th century and to have been demolished in the later 20th century. As a consequence archaeological remains associated with this farmstead may be present on the proposed development site and the archaeological potential is therefore considered to be low-moderate.

A Heritage Impact Assessment by Richard K Morriss & Associates has been submitted with the application to satisfy the requirements set out in Paragraph 128 of the NPPF. In their consultation response of 24 March 2015 English Heritage raises no objection to the proposed development. In view of the recommendations contained in the Heritage Impact Assessment, and in line with Paragraph 141 of the NPPF, it is advised that a programme of archaeological work be made a condition of any planning permission for this part of the proposed development. This would comprise an archaeological watching brief during all ground works (see condition in Appendix 1).

4.1.11 **SC Ecologist** Initial comments have been received. Further information is requested regarding ammonia.

Great crested newts: Greenscape have assessed the suitability of six ponds, none of which were found to be suitable for great crested newt breeding. No further survey is recommended. An informative is recommended (see Appendix 1).

Bats: The proposals indicate around 150m between the riparian woodland to the east and the sheds. However the development will be close to the tree line to the north and therefore it is recommended that lighting is controlled towards tree lines/hedgerows/woodland. Conditions are recommended to require approval of any

external lighting and the provision of bat boxes (see Appendix 1).

Nesting birds: An informative is recommended (see Appendix 1).

Designated sites: Further information is required in order to enable Shropshire Council, as the competent authority, to undertake an assessment of air pollution impacts under the Habitats Regulations to demonstrate that the proposed development would not have a negative impact upon designated sites. The site is in close proximity to a site known as Tyrley Spoil Banks, which has been designated as a Local Wildlife Site by Staffordshire Wildlife Trust. It is noted that the Environment Agency has issued a Permit for the proposed poultry units. Shropshire Council, under Regulation 61 in the Habitats Regulations, can rely on the 'evidence and reasoning' of another competent authority. Shropshire Council can therefore use the EA modelling from the Permit to complete the assessment of air pollution impacts but only if Shropshire Council has seen the detailed modelling outputs, understands them and agrees with them.

A copy of the Ammonia Screening Tool (AST) assessment sheet should be provided (this may be an excel sheet or a pdf). The AST assessment sheet should contain the full modelling for all designated sites (European designated sites within 10km, SSSI in 5km and local sites in 2km. Note that SC Ecology only has access to designated sites in Shropshire not Staffordshire). The AST assessment sheet should show the critical load/level of each designated site and the process contribution from the application as a % of the critical load/level.

Landscape: A landscaping condition should be imposed (see Appendix 1).

Protected sites: The site is around 12km from Aqualate Mere SSSI, part of the Midlands Meres and Mosses Ramsar site. Tyrley Canal Cutting SSSI, designated only for geological interest, is around 700m away and it is and over 10km to the next nearest SSSI.

Local Sites within 2km:

Tyrley Spoil Banks, Shropshire Union Canal LWS (Staffordshire)

Unnamed Ancient & Semi Natural Woodland 1.3km distant

The Sydnall LWS (ponds and wood in Shropshire) 1.2km distant

The proposed poultry units fall just outside of the Natural England Impact Risk Zones and on consultation NE have provided no comments regarding protected sites.

- 4.1.12 **SC Conservation** Concur with the findings of the submitted heritage assessment that any perceived harm to heritage assets (both designated and non-designated) is gauged as being neutral.
- 4.1.13 **Shropshire Fire Service** As part of the planning process, consideration should be given to the information contained within Shropshire Fire and Rescue Service's "Fire Safety Guidance for Commercial and Domestic Planning Applications". It will be necessary to provide adequate access for emergency fire vehicles. Further advice has been offered and is set out in the Informatives in Appendix 1.
- 4.1.14 **Newcastle-under-Lyme Borough Council (adjacent authority, within Staffordshire**

Planning Authority:

The Planning Committee has resolved that they did not wish to object to the proposed development but requested that the routing of HGVs and other large vehicles be controlled through the use of condition or planning obligation.

Environmental Health team:

The nearest receptors to this location within Newcastle under Lyme are dwellings at Tyrley Wharf and the British Waterways Leisure Moorings which can be occupied on a short term basis. These are located approximately 600 metres away.

Noise: It is noted that the effects on the nearest noise sensitive premises within Shropshire at Tyrley Farm are predicted to be below the LA90 +5Db criteria advised by Shropshire Council for assessment purposes. On this basis it is considered that the impact on residential amenity for properties within the Borough would be “negligible”. Accordingly there are no objections on noise grounds.

Air Quality: It is noted that the application is not accompanied by an air quality impact assessment. A small number of local authorities have identified exceedances of the statutory PM10 objectives associated with emissions from poultry farms. Based upon the advice contained within Local Air Quality Management Technical Guidance / TG09 Table C4 there is no requirement to proceed to a detailed for PM10 for the receptors within Newcastle-under-Lyme. Accordingly there are no objections on air quality grounds.

Odour Impact Assessment: It is noted that the odour impact assessment has identified Tyrley Farm as being the most affected location in terms of odour impact. The nearest odour sensitive receptor within the Borough to this location is Tyrley Wharf.

The results of the assessment indicate that the highest average predicted impact from the facility is 1.6 ouE/m³, at property R28 (Tyrley Farm) which would be considered to be a ‘negligible’ effect and this impact is also well below the EA limit criteria for new facilities.

Occasional odour will be perceived at a number of these locations however this will not be at a level which would be considered problematic. These impacts would be regarded as acceptable given the impact criteria applied. The premises will be regulated by the Environment Agency under an Environmental Permit and this requires that the site demonstrates that Best Available Techniques are utilised to reduce emissions. Odour is one of the emissions that would be controlled under the permit. In this regard it is considered that odour will not have an adverse impact on Borough on the nearest odour sensitive properties within the Borough and accordingly there are no objections on odour grounds.

Light: It is considered that artificial light has the potential to impact upon the local area. It is recommended that the installation of artificial lighting is controlled by a planning condition in order to safeguard amenity, requiring a lighting scheme to be submitted for approval.

Insects: Poultry rearing sheds have the potential to be a significant source of insect nuisance primarily from flies, the effects of which can be experienced over an area approaching 2km from the source. Insects nuisance can have an adverse impact on residential amenity. It is understood that the control of insects is not covered by the Environmental Permit issued by the Environment Agency accordingly it is requested that a conditions is imposed on any eventual permission concerning this, requiring the

submission of an insect management and control scheme for approval.

4.2 **Public comments**

4.2.1 The application has been advertised by site notice and in the local press. In addition, 50 residential and other properties in the local area have been individually notified. 13 objections have been received. The objection reasons are summarised below.

Traffic and access

- Potential impact of heavy goods farm vehicle traffic
- Noise impact of additional traffic
- Disturbance due to hours of operation of arrivals and departures
- Concern over additional traffic delivering waste to boost electricity production
- Vehicle routing agreement required
- Additional traffic through Hinstock and Market Drayton
- If permitted, plans could be modified to result in huge amounts of increased traffic on local lanes already overburdened with heavy farm and HGV traffic

Visual and siting

- Adverse impact on Shropshire Union Canal
- Remoteness of unmanned site
- Scale of AD plant too large; will require additional animal and vegetable waste to power it
- Query where water supply will come from
- Old Springs Farm is a viable alternative location for both plants as heavy goods traffic would not be increased, and plants could be manned around the clock, and fewer residents around

Pollution

- Risk of groundwater contamination to private water supplies within 400 metres of the development
- Tyrley borehole feeds around 9 residential properties; already has elevated nitrates and other contaminants above safe levels
- Advice is that drinking water with nitrates above certain levels can cause Methaemoglobinaemia (blue baby syndrome); bacterial contamination can also increase this risk
- EA has only looked for boreholes within 250 metres
- Manure management plan is required
- Spreading activity is a high risk and should be the subject of a proper EIA
- Groundwater is 4.5 metres deep and excavations will approach nearer to the aquifer resulting in domestic and environmental risks
- Insufficient evidence provided regarding the known depth of the aquifer
- Additional hydrogeological investigations required
- Queries over source of water supply
- Unacceptable levels of odour, noise pollution, dust, flies and light pollution
- Enhanced risk of H1N viruses from intensive farming, increasing danger of avian flu and related health issues
- Excessive noise, vibration and dust from increase of chopping of miscanthus grass
- Potential for gas explosion
- Proximity to pond
- Waste would be spread on fields causing odour nuisance and fly infestations in a nitrate sensitive area

Principle

- perpetuation of factory farming that is stuck in an outdated "quantitative" mindset, focusing on economic and performance data alone instead of animal welfare, nutritional quality and environmental impact.
- Purely about profit generation and adds nothing to local amenity
- Unnecessary diversification

Welfare issues

- Broiler sheds are generally bare except for water and food points, with no natural light
- litter on the floor to absorb droppings which is not usually cleared until the chickens are gathered for slaughter
- The air can become highly polluted with ammonia from the droppings. This can damage the chickens eyes and respiratory systems and can cause painful burns on their legs (called hock burns) and feet.
- Confined chickens not able to adjust their environment to avoid heat, cold or dirt as they would in natural conditions
- Concern over temperature in sheds; if ventilation fails, birds can die
- Under the EU Directive, each bird has less floor space than the size of an A4 sheet of paper.

5.0 THE MAIN ISSUES

- Environmental Impact Assessment
- Planning policy context; principle of development
- Relationship of current poultry unit proposed to associated AD proposal
- Siting, scale and design; impact upon landscape character
- Local amenity considerations
- Historic environment considerations
- Traffic and access considerations
- Drainage and pollution considerations
- Ecological considerations
- Impact on Tyrley Canal Cutting SSSI

6.0 OFFICER APPRAISAL**6.1 Environmental Impact Assessment**

6.1.1 The Town and Country Planning (Environmental Impact Assessment) (England and Wales) Regulations 2011 specify that Environmental Impact Assessment (EIA) is mandatory for proposed development involving the intensive rearing of poultry where the number of birds is 85,000 or more. As such the current proposal is EIA development. Shropshire Council provided a formal scoping opinion to the applicant in February 2015 (ref. 14/05167/SCO) setting out the matters that would need to be included in any EIA for the proposed development. The planning application is accompanied by an Environmental Statement, as required by the 2011 Regulations.

6.2 Planning policy context; principle of development

6.2.1 The National Planning Policy Framework (NPPF) advises that the purpose of the planning system is to contribute to achieving sustainable development (para. 6) and establishes a presumption in favour of sustainable development (para. 14). One of its core planning principles is to proactively drive and support sustainable economic development (para. 17). Sustainable development has three dimensions – social, environment, and

economic. In terms of the latter the NPPF states that significant weight should be placed on the need to support economic growth through the planning system (para. 19). The NPPF also promotes a strong and prosperous rural economy, supports the sustainable growth and expansion of all types of business and enterprise in rural areas, and promotes the development of agricultural businesses (para. 28). The NPPF states that the planning system should contribute to and enhance the natural and local environment (para. 109) and ensure that the effects (including cumulative effects) of pollution on health, the natural environment or general amenity should be taken into account (para. 120).

- 6.2.2 Core Strategy Policy CS5 states that development proposals on appropriate sites which maintain and enhance countryside vitality and character will be permitted where they improve the sustainability of rural communities by bringing local economic and community benefits, particularly where they relate to specified proposals including: agricultural related development. It states that proposals for large scale new development will be required to demonstrate that there are no unacceptable adverse environmental impacts. Whilst the Core Strategy aims to provide general support for the land based sector, it states that larger scale agricultural related development including poultry units, can have significant impacts and will not be appropriate in all rural locations (para. 4.74). Policy CS13 seeks the delivery of sustainable economic growth and prosperous communities. In rural areas it says that particular emphasis will be place on recognising the continued importance of farming for food production and supporting rural enterprise and diversification of the economy, in particular areas of economic activity associated with industry such as agriculture.
- 6.2.3 The above policies indicate that there is strong national and local policy support for development of agricultural businesses which can provide employment to support the rural economy and improve the viability of the applicant's existing farming business. In principle therefore it is considered that the provision of a poultry unit development in this location can be supported. Objections to the proposal have been made on the grounds of welfare of birds however these matters are governed under separate legislation and it is not considered that they are relevant to the current planning application for poultry sheds. However policies also recognise that poultry units can have significant impacts, and seek to protect local amenity and environmental assets. These matters are assessed below.

6.3 Relationship of current poultry application to associated proposed anaerobic digester (AD) facility

- 6.3.1 In addition to the current application for poultry units, the applicant has submitted a planning application for an anaerobic digester (AD) plant on adjacent land (ref. 15/01108/MAW). The two applications are inter-related in that it is proposed that the AD plant would use poultry manure from the poultry unit as a feedstock, and that the digestate from the AD plant would provide fuel which can be used in biomass boilers in the poultry development. Nevertheless the current proposal for poultry units should be considered as a stand alone proposal.

6.4 Siting, scale and design; impact on landscape character

- 6.4.1 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 sees 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. It is noted that the site is not located within an area designated for landscape value.

- 6.4.2 The application site is located on slightly undulating ground which in general slopes down towards the canal to the east. The land to the west rises slightly up to the west before falling again towards the A529. To the north the land rises slightly before falling towards Tyrley Wharf. The landscape is characterised by fields with hedgerow boundary trees, in-field trees and ponds. The area of the application site is generally undeveloped however there is a concrete pad towards the northern side of the site which is used for the storage of bales. It should also be noted that the proposed site is located adjacent to land to the west for which planning permission was granted in 2013 for the construction of a miscanthus grass storage and pelleting building (ref. 11/04052/FUL) which has yet to be built. The permitted dimensions of this are 24 metres x 49 metres x 12.4 metres high, i.e. similar dimensions to the storage shed for the proposed AD facility.
- 6.4.3 A Landscape and Visual Impact Assessment (LVIA) has been undertaken in support of the application. This assesses the landscape value of the area as low to medium. It states that the nature of the views are relatively short distance, that the susceptibility to change (the ability of the landscape receptor to accommodate the proposed development) is medium to high, and the overall sensitivity of the landscape is considered to be low. Officers concur with this assessment.
- 6.4.4 The proposed development would be located within the primary area of the land owned by the applicant, which extends to 445 hectares. This primary area is accessible internally from the proposed site. The intention would be that the poultry manure would be fed into the proposed AD plant, along with energy crops grown on adjacent farmland. The resulting digestate would be used in the biomass boilers to provide heat for the poultry buildings, and also as an organic fertiliser on adjacent agricultural land. Biogas produced as part of the adjacent AD process would be captured and used as fuel for a Combined Heat and Power (CHP) engine which would produce electricity and heat. This would be utilised in the poultry buildings with any surplus electricity being exported to the National Grid. As such it is considered that in principle the proposed site for the poultry unit, together with the AD facility is well located in relation to sources of feedstock and receptors of digestate.
- 6.4.5 The proposed poultry sheds would be large structures in terms of their footprint. However it is proposed that they are sunk below the existing ground levels, thereby reducing their visibility in the landscape. Views into the site from surrounding public areas and private properties are generally limited. This is due to the distance between the site and such receptors, intervening vegetation and the topography of the land. Views of the proposed development from the towpath of the canal to the east would be restricted given that the canal is in a cutting, and also that there is a thick belt of woodland on the western side of the canal. Nevertheless the higher parts of the development would be visible from some surrounding viewpoints. In particular some views of the development would be likely to be gained from some residential properties to the north-west and south-west, particularly from upper floor windows.
- 6.4.6 It should be noted that these views would be from some distance: the nearest property that is likely to have a view of the development is located approximately 400 metres away. In relation to views from the public right of way to the south-east, these are likely to be from a distance of 165 metres at its closest point. The appearance of the proposed

development would be agricultural in appearance and would therefore not be incongruous in this rural landscape.

- 6.4.7 The landscaping scheme proposed for the development includes the provision of a 2.5 metres high earth bund along the western side of the site of the AD plant, with landscape planting to the north and south of the site. Existing hedges and trees in the area would be retained. In principle Officers consider that this landscaping proposal is appropriate in seeking to assimilate the development into the landscape, and reducing the visibility of the development from surrounding viewpoints. The detailed matters can be agreed as part of a landscaping planning condition.
- 6.4.8 Officers consider that the likely views of the development would not be significant given the distance and the proposed landscaping. In addition Officers consider that whilst the proposed development would have some impact upon the landscape character of the area, the proposal is of an acceptable design and incorporates satisfactory mitigation against visual impacts. As such the proposal can be accepted in relation to Core Strategy Policy CS6.

6.5 Local amenity considerations

- 6.5.1 Noise: A Noise Impact Assessment report has been submitted as part of the planning application. This has identified the likely noise levels that would be generated by the proposed facility, including from fans and HGV movements, and assesses these against the criteria set out in the relevant BS4142. The report has also assessed cumulative noise impact to include noise from the associated AD unit. The report concludes that noise from the poultry unit and AD facility would be of no change/negligible significance or negligible/neutral significance at the majority of sensitive receptors around the site. The exception to this would be at a property the west of the site, where cumulative daytime noise would be considered of minor to moderate significance, but nonetheless in line with criteria highlighted by the Council's Public Protection team.
- 6.5.2 The Council's Public Protection Officer has confirmed that noise is unlikely to have a detrimental impact on the amenity of the area. On the basis of the distance of the site from sensitive receptors and the likely noise levels it is not considered that the proposed development would adversely affect residential amenity.
- 6.5.3 Odour and flies: An Odour Impact Assessment has been undertaken which has included dispersion modelling to assess likely odour concentrations. Peak odour emission rates would occur during the cleaning out of the buildings at the end of each cycle. The odour report notes that emissions from spent litter would be reduced if the manure is moved directly to the AD plant. The odour report states that occasional odour would be perceived at a number of locations around the site but that this would be at a level deemed acceptable.
- 6.5.4 The Council's Public Protection Officer considers that the proposed development is not likely to have a significant detrimental impact on the amenity of the area due to odour. The Officer considers that there would be adequate control of flies inside the poultry units. It is considered that the proposed development has been satisfactorily designed, including in relation to the separation distance to the nearest residential properties. It is noted that the Environment Agency has now issued an Environmental Permit for the poultry development and this will control detailed elements of the process, including noise and odour management. Overall it is considered that the proposal has been designed to

ensure that the facility can be operated without adversely affecting local amenity due to noise, odour or other impacts. In addition satisfactory safeguards would be provided as part of the Environmental Permitting process to address any specific issues. The proposal is therefore in line with Core Strategy Policy CS6.

6.6 **Historic environment considerations**

6.6.1 Core Strategy Policy CS17 requires that developments protect and enhance the diversity, high quality and local character of Shropshire's historic environment. Paragraph 134 of the NPPF requires that, where a development proposal will lead to less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against the public benefits of the proposal. In addition, special regard has to be given to the desirability of preserving Listed Buildings or their setting or any features of special architectural or historic interest which it possesses and preserving or enhancing the character or appearance of the Conservation area as required by section 66 and 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990.

6.6.2 A Heritage Impact Assessment has been undertaken as part of the planning application. This identifies that the nearest listed building is Hollings Bridge that runs across the canal cutting to the east of the site. The proposed development would not be visible from this bridge, or from that part of the canal that is designated as a linear Conservation Area. The Council's Conservation Officer concurs with the conclusions of the Heritage Impact Assessment that harm to heritage assets (both designated and non-designated) would be neutral. It is considered that the proposal is acceptable in relation to Core Strategy Policy CS17.

6.6.3 The County Archaeologist has recommended that a programme of archaeological work is undertaken and this can be secured through a planning condition, as detailed in Appendix 1 below.

6.7 **Traffic and access considerations**

6.7.1 The access to the site from the A529 would be via an access point that is currently being constructed under the implementation of a planning permission for a miscanthus grass storage and pelleting building. This access is acceptable for the current application.

6.7.2 The primary HGV movements using the public highway would be those relating to the collection of birds, the delivery of feed and the collection of manure. However it is acknowledged that, should permission for the AD facility be granted, manure would be used as a feedstock such that this element would not entail the use of vehicles on the public highway network. Other vehicle movements would include tractors and trailers, and employees vehicles. The submitted Highways Assessment estimates that there would be 22 HGV movements per crop cycle associated with the delivery of feed, and 34 HGV movements per crop cycle associated with bird removal. Bird removal would typically take place during two days per crop cycle. As such 17 HGVs would be associated with bird thinning (day 35 of the cycle) and 17 HGVs would be associated with the removal of the remaining birds (day 42 of the cycle). Bird collection would take place from 2am onwards at a rate of one collection per hour.

6.7.3 The Council's Highways Officer considers that the amount of traffic generated by both the proposed AD facility and the proposed poultry unit can be accommodated on the local highway network, and has raised no objections to the proposal. It is not considered that a refusal of the proposed development on highways grounds could be sustained. Given

the levels of traffic anticipated it is not considered that a HGV routing agreement is necessary. The conditions recommended by the Highways Officer can be imposed on any decision notice. Subject to this it is considered that the proposed development would not have an adverse impact upon highway safety in line with Core Strategy Policies CS6 and CS7.

6.8 **Drainage and pollution considerations**

6.8.1 Core Strategy Policy CS18 seeks to reduce flood risk and avoid adverse impact on water quality and quantity.

6.8.2 Surface water drainage: The site is located within Flood Zone 1 indicating that the risk of flooding is low. The submitted Drainage Report and Flood Risk Assessment states that the use of soakaways to deal with surface water drainage is highly unlikely to be appropriate due to limited ground porosity. The design of the surface water drainage system is based upon sustainable drainage principles. It is proposed that surface water drainage would be collected in stone filled trenches connected to an attenuation pond. It is proposed that this attenuation pond would have an outfall to a watercourse to the east.

6.8.3 The Canal and River Trust has noted that this watercourse runs close to the top of Woodseaves Cutting, a deep cutting alongside the Shropshire Union Canal, and that there are already stability issues with this cutting as a consequence of groundwater drainage. The Trust has advised that it is essential that the rate and amount of water discharging to the watercourse is not increased. The submitted drainage report states that flow rates from the attenuation pond would be restricted to greenfield runoff rates. This would ensure that the proposal would not have an adverse affect on the receiving downstream watercourse, and on the cutting.

6.8.4 The Council's Drainage Officer has confirmed that detailed matters relating to surface water drainage management can be dealt with by planning condition, and an appropriate condition is set out in Appendix 1.

6.8.5 Dirty water management: The concerns of the Parish Councils, the Canal and River Trust and some residents regarding the potential impact of the proposals on private water supplies are noted. All operations would take place either within the poultry sheds or on the hardstanding areas around the buildings. The floors of the buildings would be reinforced concrete thereby preventing seepage of manure effluent to groundwater. Dirty wash water from cleaning out the sheds would be directed to a dirty water tank, which would be fitted with level indicators to identify when they need emptying. A diverter valve would allow drainage to be diverted to either the sustainable drainage system or the dirty water tank depending upon the stage of the cycle.

Detailed matters relating to pollution prevention measures to be incorporated within the site design would be dealt with through the Environmental Permitting process. It is noted that an Environmental Permit for the operation has now been issued.

6.8.6

The area is designated as a Nitrate Vulnerable Zone, and the spreading of manure onto agricultural land (should the AD facility not go ahead) is controlled under separate regulations.

6.8.7

6.9 **Ecological consideration**

6.9.1 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. It is noted that the application site does not form part of any statutory or non-statutory designated site for nature conservation.

- 6.9.2 Protected species: The planning application is accompanied by a Phase 1 Environmental Survey report. A survey was undertaken to determine the presence of protected species and the potential for impact on habitats of ecological value. The report states that no protected species were found as part of the survey. The survey assessed six ponds in the area, and found that none were suitable for great crested newt breeding. The report states that the existing use of the land comprising the growing of energy crops is considered to be of low ecological value. Officers concur with this. The conditions recommended by the Council's Ecologist regarding lighting and landscaping can be imposed if permission is granted.
- 6.9.3 Potential impacts from emissions from the poultry units: Ammonia is released from intensive poultry sheds through the breakdown of uric acid which arises from bird excretion. Ammonia emissions from poultry units can potentially impact on nearby nature conservation sites, damage vegetation and affect sensitive habitats. An ammonia report has been submitted as part of the planning application which presents the findings of modelling of the dispersion and deposition of ammonia from the proposed poultry units. This identifies that the proposed development would result in ammonia concentrations over a small part of Tyrley Spoil Banks Local Wildlife Site to the east that are in the range between what is considered insignificant and what may not be considered acceptable. It also identifies that the proposals would result in nitrogen deposition rates that are in excess of that which may be considered acceptable at the Local Wildlife Site. The ammonia report states that, under these circumstances, some form of mitigation is usually required. However it suggests that further mitigation to reduce ammonia production may not be required in this case. The reasons for this is that the use of indirect heating at the unit, and the particular crop cycle to be adopted, would both lead to lower emissions of ammonia.
- 6.9.4 The Council's Ecologist has acknowledged that an Environmental Permit for the proposed operation has been issued by the Environment Agency. As part of this process the Environment Agency has assessed the likely impacts of the proposal on ammonia and nitrogen levels. It is understood that the Agency has accepted that the use of biomass boilers would significantly reduce ammonia emissions, and has concluded that the proposal is acceptable to be Permitted. In terms of nitrogen and acid deposition the Agency considers that no significant pollution would occur.
- 6.9.5 Notwithstanding this it is noted that the Council's Ecologist requires further detailed information in order to undertake an assessment under the Habitats Regulations, and to be able to confirm that emissions from the proposed development would be acceptable in relation to potential impacts on designated ecological sites. Subject to this matter being resolved, Officers consider that the proposal can be accepted in relation to Core Strategy Policy CS17, as it would not result in the loss of habitat of significant value, or adversely affect protected species or designated ecological sites. In addition the landscaping proposals would provide some ecological benefit. For this reason it is recommended that Members delegate authority to the Planning Manager to grant planning permission for the proposed poultry units subject to satisfactory resolution of these ecological issues.

6.10 Impact on Tryley Canal Cutting SSSI

6.10.1 It is acknowledged that some objections to the proposal, including those from the Parish Councils, have raised concerns over the potential impact of the proposal on the Tryley Canal Cutting Site of Special Scientific Interest (SSSI). This has been designated for its geological interest, in particular for showing details of river channel formation. The SSSI is located adjacent to the canal, approximately 480 metres from the application site. Given this distance it is not anticipated that the proposed development would adversely affect the SSSI, either directly or indirectly. Natural England has raised no objections to the proposals.

7.0 CONCLUSION

7.1 The proposal for a broiler poultry unit at Woodseaves is an acceptable form of agricultural development and would be of an appropriate scale and appearance. Whilst the proposal would have some impact on the character of the local landscape it is considered that this would be minimised through the proposed landscaping, and that the impacts would not be unacceptable. Satisfactory measures have been incorporated within the design of the development to ensure that potential adverse impacts from noise and odour can be controlled to acceptable levels. The additional traffic that would be associated with the development can be satisfactorily accommodated by the existing highway network and the site access provisions are acceptable.

7.2 It is considered that the proposed drainage arrangements are acceptable in principle and detailed matters can be agreed by planning condition. The proposal incorporates satisfactory site management and engineering controls to minimise the risk of pollution, and further detailed controls would be provided as part of the Environmental Permit which has now been issued by the Environment Agency.

7.3 Further details will need to be submitted to demonstrate that the ammonia emissions from the proposed development would be acceptable in relation to potential impacts on designated ecological sites, to enable the local planning authority to complete its assessment under the Habitats Regulations. Subject to this matter being addressed it is considered that the proposed development would be acceptable in relation to Development Plan and other relevant policies. As such it is recommended that delegated authority is given to the Planning Manager to grant planning permission for the proposed development subject to the conditions as set out in Appendix 1 and subject to ecological matters being satisfactorily resolved.

8.0 Risk Assessment and Opportunities Appraisal

8.1 Risk Management

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

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

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

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

8.2 Human Rights

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

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

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

8.3 Equalities

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

9.0 Financial Implications

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

- Strategic Objective 9 seeks to promote a low carbon Shropshire by measures that include the generation of energy from renewable sources
- Policy CS5 (Countryside and Green Belt)
- Policy CS6 (Sustainable Design and Development Principles)
- Policy CS13 (Economic Development, Enterprise and Employment)
- Policy CS17 (Environmental Networks)
- Policy CS18 (Sustainable Water Management)

- Policy CS19 (Waste Management Infrastructure)

10.2 Central Government Planning Policy and Guidance:

10.2.1 National Planning Policy Framework (NPPF): The NPPF states that one of the core planning principles is that planning should support the transition to a low carbon future and encourage the use of renewable resources (para. 17). Amongst other matters, the NPPF: supports a prosperous rural economy, and states that plans should promote the development of agricultural businesses (Chapter 3); 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); 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). The NPPF states that local planning authorities should not require applicants for energy development to demonstrate the overall need for renewable or low carbon energy and recognize that even small-scale projects provide a valuable contribution to cutting greenhouse gas emissions, and should approve applications for renewable or low carbon energy if its impacts are (or can be made) acceptable (para. 98).

10.3 Emerging policy:

10.3.1 Site Allocations and Development Management (SAMDev) document: Relevant draft Development Management policies include:

- MD2 (Sustainable Design)
- MD7b (General Management of Development in the Countryside)
- MD12 (Natural Environment)
- MD14 (Waste Management Facilities)

10.4 Relevant Planning History:

11/04052/FUL Erection of a building for pelleting/storage of biomass crop (Miscanthus) with attached office; installation of roof mounted PV solar panels; provision of a weighbridge; provision of visibility splay and associated works; landscaping scheme to include earth bund (Amended Description) PERMITTED 5th April 2013

14/05167/SCO Scoping opinion for the erection of four poultry units, feedstock clamps and anaerobic digester plant SCOPING OPINION 17th February 2015

15/01108/MAW Installation of an 800kW agricultural Anaerobic Digester (AD) Plant and associated infrastructure CURRENTLY UNDETERMINED

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. 15/00924/EIA and supporting information and consultation responses.

Cabinet Member (Portfolio Holder)

Cllr M. Price

Local Member

Cllr Andrew Davies (Cheswardine)

Appendices
APPENDIX 1 - Conditions

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

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

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

2. The development shall be carried out strictly in accordance with the approved plans and drawings Reason: For the avoidance of doubt and to ensure that the development is carried out in accordance with the approved plans and details.

CONDITION(S) THAT REQUIRE APPROVAL BEFORE THE DEVELOPMENT COMMENCES

3. No development shall take place until a detailed scheme for the disposal of surface water and all treated foul sewage, to include discharges to any watercourses and discharge rates, has first been submitted to and approved in writing by the Local Planning Authority, together with a timetable for its installation. The development shall thereafter only be implemented in accordance with the approved scheme.

Reason: To ensure that appropriate drainage arrangements are in place which minimise the risk of flooding of adjoining land, prevent pollution and minimises the risk of creating land instability in the adjacent Woodseaves Canal Cutting.

4. The development hereby permitted shall not be brought into use until full details of the arrangements for spreading residual dirty water from washing down have first been submitted to and approved in writing by the Local Planning Authority. The development shall thereafter only be operated in accordance with the approved details.

Reason: To ensure that appropriate arrangements are in place in order to minimise the risk of pollution of the local water environment.

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

Reason: The development site is known to have archaeological interest

6. No development hereby permitted shall take place until details of the external materials and colour treatment of all plant and buildings have been submitted to and approved in writing by the local planning authority. The development shall be undertaken in accordance with the approved details, and retained as such for the lifetime of the development.

Reason: To ensure an acceptable appearance to protect the visual qualities of the area, and as such these details need to be approved prior to the development proceeding in order to ensure a sustainable development.

7. No above ground works shall be commenced until full details of both hard and soft landscape works have been submitted to and approved in writing by the local planning authority. The landscape works shall be carried out in full compliance with the approved plan, schedule and timescales. Any trees or plants that, within a period of five years after planting, are removed, die or become, seriously damaged or defective, shall upon written notification from the local planning authority be replaced with others of species, size and number as originally approved, by the end of the first available planting season.

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

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

Reason: In the interests of highway safety.

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

9. Prior to the development hereby permitted being first brought into use the junction onto the A529 and access road leading to the site, indicatively shown on Drawing no.SA17988-01 Rev A, shall be laid out and constructed fully in accordance with details and specification to be first submitted to and approved in writing by the Local Planning Authority.

Reason: In the interests of highway safety.

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

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

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

11. A total of 4 woodcrete bat boxes suitable for nursery or summer roosting for small crevice dwelling bat species shall be erected on the site prior to first use of the building hereby permitted. All boxes must be at an appropriate height above the ground with a clear flight path and thereafter be permanently retained.

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

12. No construction works shall be undertaken outside of the following hours: 0800 and 1800 Monday to Friday; and 0800 to 1300 on Saturdays. No such works shall take place on Sundays or bank holidays.

Reason To protect the amenities of the local area.

13. Vehicle movements associated with the delivery and of feedstock to/from the site via the public highway shall not take place other than between the following hours: Monday to Friday: 07:30- 18:00,
Saturdays: 08:00 - 13:00.
No such vehicle movements shall take place on Sundays or Bank Holidays.

Reason: To protect local amenity.

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Committee and Date
 North Planning Committee
 2nd September 2015

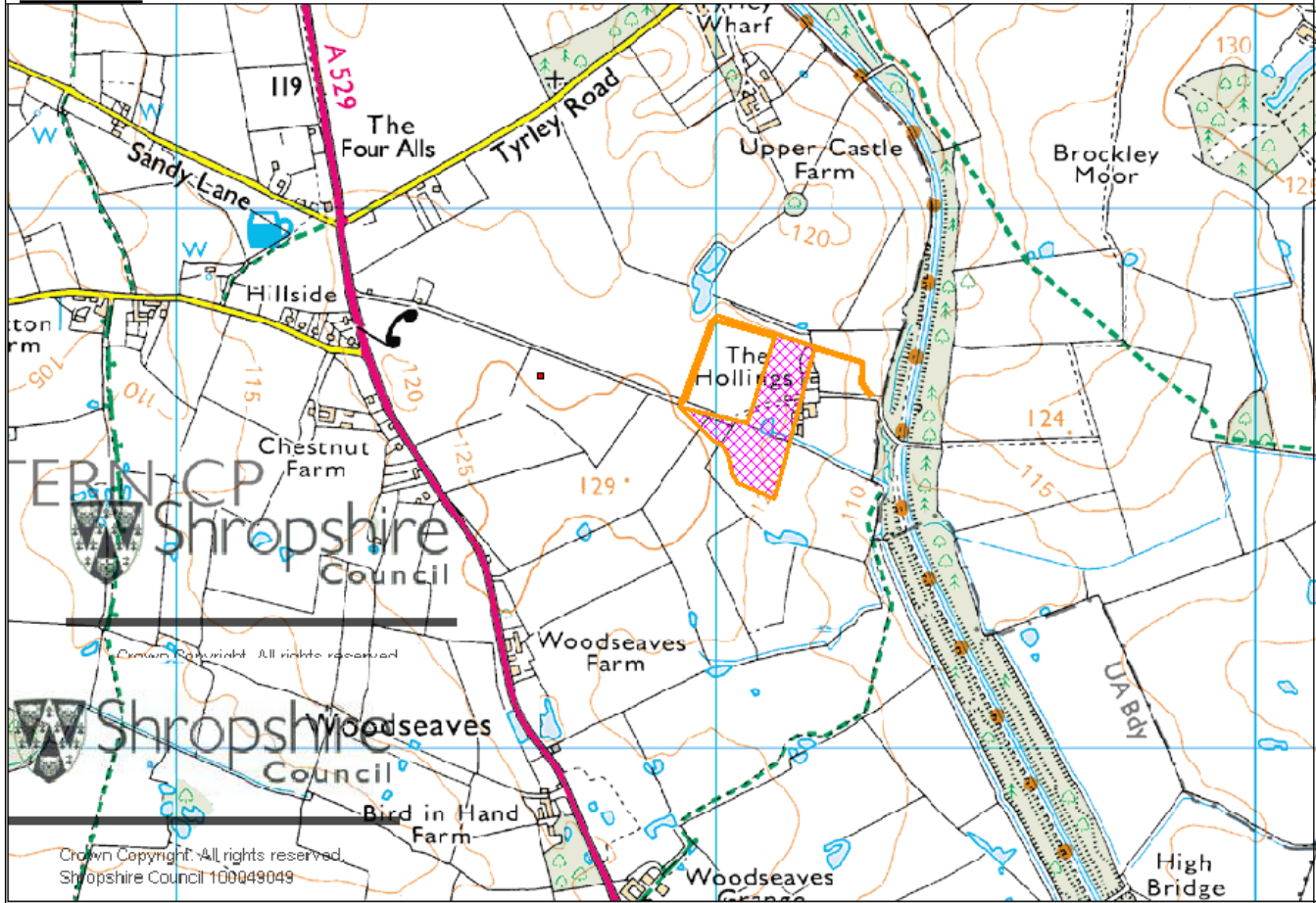
Item
6
 Public

Development Management Report

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

Summary of Application

Application Number: 15/01108/MAW	Parish:	Sutton Upon Tern
Proposal: Installation of an 800kW agricultural Anaerobic Digester (AD) Plant and associated infrastructure		
Site Address: Land South Of Hollins Lane Newport Road Woodseaves Market Drayton		
Applicant: Mr Keith Wilson		
Case Officer: Kelvin Hall		email: planningdmc@shropshire.gov.uk
Grid Ref: 368674 - 331691		



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

1.1 The planning application seeks permission for the construction of an 800kW anaerobic digestion (AD) facility on land to the east of Hollins Lane, Woodseaves, near Market Drayton. It is proposed that the AD facility would process approximately 14,200 tonnes of feedstock per annum. This would comprise 3,200 tonnes of chicken litter (to be produced as part of an adjacent poultry unit development, subject to planning permission being granted), and 11,000 tonnes of energy crops grown across land farmed by the applicant. The energy produced by the plant would include electricity and heat. This would be used on the applicant's holding, with excess electricity being exported to the national grid. In addition the process would produce digestate, which would be used on the applicant's agricultural land, as a fertiliser in place of animal manure and/or artificial fertiliser.

1.2 It is estimated that approximately 202 hectares of agricultural land would be required for the production of energy crops. The total agricultural land farmed by the applicant extends to approximately 809 hectares, of which more than 600 hectares is owned.. The proposed site lies within a parcel of land owned by the applicant which extends to 445 hectares. This area of land is accessible using wholly owned internal tracks which link to the proposed site.

1.3 It is proposed that all feedstock would be agricultural in origin, and it is not proposed to import food waste to the facility. Proposed feedstock would be as follows:

Input	Tonnage per annum	Source
Chicken litter	3,200	Applicant's holding
Maize	6,000	Applicant's holding
Beet	3,000	Applicant's holding
Rye	2,000	Applicant's holding

1.5 The principal buildings and plant proposed comprise the following:

- Storage shed: 50 metres x 25 metres x 12.5 metres high (9 metres to eaves), clad in juniper green colour with a fibre cement roof
- Digester tank: 25 metres diameter, with a height of 7 metres, and 12.5 metres to the top of the gas holder dome, juniper green in colour
- Digestate tank: 25 metres diameter, 7 metres in height, juniper green in colour
- Slurry/buffer tank: 9 metres in diameter, with a height of 7 metres; juniper green in colour
- Silage clamps (4no.): each 45 metres x 17 metres x 4 metres in height, of concrete construction
- Separator and clamp: clamp 12.5 metres x 4.5 metres x 4 metres high; of concrete construction; separator located 5.5 metres above ground level over the clamp
- Drier: located within the storage shed
- CHP unit: 12 metres x 3 metres x 3 metres high; the CHP stack would be 7 metres

above ground level

- Substation: 3 metres x 3 metres x 2.2 metres high
- Transformer: 3 metres x 3 metres x 1 metre high

1.6 The application accompanies a separate application for the development of four poultry sheds on adjacent land (ref. 15/00928/EIA).

2.0 **SITE LOCATION/DESCRIPTION**

2.1 The application site is located approximately 2.5km to the south-east of Market Drayton, and approximately 500 metres to the east of Woodseaves. The application site (2.5 hectares) and surrounding land is currently in agricultural use, the land being used for the growing of miscanthus grass. Access to the site would be gained via Hollins Lane, a private access road approximately 620 metres in length that connects to the A529 to the west. The nearest properties are those at Tyrley Farm, approximately 400 metres to the north. Other residential properties in the area include those along the A529 to the west, the nearest being 445 metres to the south-west; a property along Hollins Lane (owned by the applicant) approximately 515 metres to the west; and properties along Tyrley Road approximately 550 metres to the north-west.

2.2 A number of ponds are located in the surrounding area, the nearest being approximately 30 metres to the north-west. The Shropshire Union Canal runs in a generally north-south orientation approximately 285 metres to the east. This section of the canal is designated as a Conservation Area. Public rights of way in the area include a footpath to the south-east, approximately 290 metres to the south-east, and a footpath along the towpath of the canal to the east. The nearest Listed Building a Grade II Listed canal bridge, approximately 285 metres to the east. Further afield, there is a Grade II Listed direction post adjacent to the canal, approximately 480 metres to the north-east. The Tyrley Cutting SSSI, designated for geological interest, is located approximately 680 metres to the south-east. Tyrley Spoil Banks, a Local Wildlife Site designated by the Staffordshire Wildlife Trust, is located approximately 240 metres to the east.

2.3 The application site lies close to the Shropshire – Staffordshire border, approximately 230 metres to the east.

3.0 **REASON FOR COMMITTEE DETERMINATION OF APPLICATION**

3.1 The views of the Parish Council are contrary to the Officer recommendation, and it is not considered that their concerns can be satisfactorily addressed as part of the application. The application therefore does not meet the criteria for a delegated decision as set out in the Delegation Scheme.

3.2 The matter was discussed with the Chair and Vice Chair of the North Planning Committee and it was agreed that this application should be debated by committee given the issues raised and also that the application is directly linked to the poultry units application which is a committee matter due to being a schedule 1 EIA application.

4.0 **COMMUNITY REPRESENTATIONS**

4.1 **Consultee Comments**

4.1.1 **Sutton upon Tern Parish Council** Objects.

- 1) Proposed location of units: Councillors queried why the units are being sited 2.5 miles away from Old Springs Farm when it is stated in the supporting documents that the digester will supply power to the farm. Why is it not being sited closer to the farm?
- 2) Close proximity to a number of sensitive receptors: Councillors agreed a more suitable location could be found on the applicant's land;
- 3) Highways concerns - Increase in volume of traffic;
- 4) Close proximity to listed buildings - inappropriate in the proposed location;
- 5) Neighbouring properties share a borehole for their water supply: local residents are extremely concerned about contamination of their water supply which has already registered a high level of nitrates and possible over-use by the proposed businesses which may result in a long term problem for resident users;
- 6) Close proximity to an SSSI - Tyrley canal/locks;
- 7) Loss of residential amenity for neighbouring properties;
- 8) Strength of local objections;
- 9) The close proximity of the proposed site to sensitive receptors magnifies the nuisance caused by dust, odours, flies and vermin. The Councillors agreed that the applicant has more suitable sites for such a business enterprise and agreed to strongly object to this application on the basis of it being contrary to CS6, CS5 and CS17. Human Rights Protocol Article 8 gives the right to respect for private and family life and 1st Protocol Article 1 allows for peaceful enjoyment of possessions: First protocol Article 1 stipulates that the desires of the landowners must be balanced against the impact on residents.

4.1.2 **Loggerheads Parish Council (adjacent Parish Council, in Staffordshire)** Strongly objects to the application on the following grounds:

- 1) Proposed location of units: Councillors queried why the units are being sited 2.5 miles away from Old Springs Farm when it is stated in the supporting documents that the digester will supply power to the farm. Why is it not being sited closer to the farm?
- 2) Highways concerns - Increase in volume of traffic on narrow country lanes;
- 3) Close proximity to listed buildings - inappropriate in the proposed location;
- 4) Neighbouring properties share a borehole for their water supply: local residents are extremely concerned about contamination of their water supply which has

already registered a high level of nitrates and possible over-use by the proposed businesses which may result in a long term problem for resident users;

5) Close proximity to an SSI - Tyrley canal/locks;

6) Loss of residential amenity for neighbouring properties;

7) Strength of local objections.

4.1.3 **Environment Agency** No objections.

Controlled water impacts: The geological setting is that of Salop formation layered mudstone, sandstone and conglomerate, with no superficial deposits, classed as Secondary A aquifer. The site therefore presents a moderate risk to groundwater. We are not aware of any regulated groundwater abstractions, based on our records, within close proximity of the site. The planning application confirms that there are no known private water supplies within 250m of the site boundary. We note the ponds at around 30m and 70m distant from the proposed site.

The information as submitted confirms that the AD structures are to be set above ground level following the creation of a level platform.

The application also confirms a site investigation (test hole for groundwater) be carried out prior to excavation of the platform. We expect the Standard Rules Permit application (discussed further below) to include the results of the site investigation. This should inform the final design of the tanks.

The site is not located within 200m of any European Site or Site of Special Scientific Interest. We note that the gas engine stack is more than 200m from any sensitive receptor, and will be set greater than 7m in height.

Environmental Permit: From the information provided, without prejudice, it appears that the applicant could design the plant for a SR2012No10 'On-farm anaerobic digestion facility including use of the resultant biogas' (New Standard Rules). This is on the basis that the site capacity is less than 100 tonnes of waste (including process water) per day, as confirmed in the Environmental Permit Compliance Assessment as submitted. Based on the further information and looking through the potential constraints which might affect the appropriateness of the land use, we do not anticipate any significant cause for concern, at this stage.

SRP controls: The EP would regulate and control matters such as the following:

- General Management of the site.
- Permitted activities e.g. operations.
- Waste Acceptance (quantity and type of waste).
- Emissions to land, water and air (including Odour, Noise and Vibration relevant to the 'operational area').
- Monitoring, Records and Reporting.

Secondary Containment: The proposal includes for the provision of an appropriate secondary containment system to protect groundwater and surface water systems. This will need to be constructed following the guiding principles set out in CIRIA 736

- containment systems for the prevention of pollution (July 2014). Further details on the materials specification for the bund etc will be required to support the EPR Permit application.

Note - All storage and process tanks shall be located on an impermeable surface (a hydraulic permeability of not greater than 1×10^{-9} m/s) with sealed construction joints within the bunded area.

Odour and Noise: With regard to odour and noise the proposal should incorporate measures to avoid and minimise potential impacts on local air quality and noise. The supporting information recognises the nearest residential sensitive receptor at approximately 400m to the north of the site. The document provides some information on likely impacts and management.

The application confirms the introduction of the AD plant offers benefit to the local area in terms of odour containment, relative to the possible situation whereby chicken litter may be spread on agricultural land farmed by the applicant.

It should be noted that the above Standard Rules Permit will normally only require a detailed Odour Management Plan and Noise Management Plan as a reactive measure, if the activities give risk to pollution etc.

Your Public Protection team should be consulted on the noise report in relation to statutory nuisance, and so that all the relevant key issues are 'joined up', to ensure the pollution control regimes are complimentary etc.

As mentioned in the submission, we note that the applicant is willing to undertake a background noise assessment prior to commissioning.

Air Quality: We note, from the Environmental Permit Compliance Assessment, as submitted, that a gas flare will be present on site to dispose of un-burnt biogas in the event of the engine failing/maintenance. We also note confirmation that the gas engine stack height will be set above 7 metres and CHP engine will be designed to emission limits. We would therefore not require a detailed air quality assessment.

Flood Risk: The site is located within Flood Zone 1 (low probability of fluvial risk) based on our indicative Flood Map for planning. We would not make any bespoke comments on surface water quantity on the basis of the scale and nature of the proposal in this location. However, we would draw your attention to our area Flood Risk Standing Advice; for your consideration in consultation with your Flood and Water Management team.

4.1.4 **Natural England** No specific comments to make.

Designated sites: The application is not likely to result in significant impacts on statutory designated sites, landscapes. It is for the local authority to determine whether or not this application is consistent with national or local policies on biodiversity and landscape.

Protected species: We have not assessed this application and associated documents for impacts on protected species. Natural England has published

Standing Advice on protected species. The Standing Advice includes a habitat decision tree which provides advice to planners on deciding if there is a 'reasonable likelihood' of protected species being present. It also provides detailed advice on the protected species most often affected by development, including flow charts for individual species to enable an assessment to be made of a protected species survey and mitigation strategy.

You should apply our Standing Advice to this application as it is a material consideration in the determination of applications in the same way as any individual response received from Natural England following consultation.

The Standing Advice should not be treated as giving any indication or providing any assurance in respect of European Protected Species (EPS) that the proposed development is unlikely to affect the EPS present on the site; nor should it be interpreted as meaning that Natural England has reached any views as to whether a licence may be granted.

Local sites: If the proposal site is on or adjacent to a local site, e.g. Local Wildlife Site, Regionally Important Geological/Geomorphological Site (RIGS) or Local Nature Reserve (LNR) the authority should ensure it has sufficient information to fully understand the impact of the proposal on the local site before it determines the application.

Impact Risk Zones for Sites of Special Scientific Interest: Natural England has recently published a set of mapped Impact Risk Zones (IRZs) for Sites of Special Scientific Interest (SSSIs). This helpful GIS tool can be used by LPAs and developers to consider whether a proposed development is likely to affect a SSSI and determine whether they will need to consult Natural England to seek advice on the nature of any potential SSSI impacts and how they might be avoided or mitigated.

4.1.5 **Historic England** The application(s) should be determined in accordance with national and local policy guidance, and on the basis of your specialist conservation advice.

4.1.6 **Canal and River Trust** No objections, subject to conditions.

The Trust has provided detailed comments in relation to a planning application for poultry units on adjacent land (15/00924/EIA), and has advised that those comments also apply to the current application. These are as summarised below.

Drainage: We note that surface water from the development is proposed to discharge into an attenuation pond, and from there into an existing watercourse to the east of the site. Outfall to the watercourse is to be restricted to greenfield rates. This watercourse runs close to the top of Woodseaves Cutting, a deep cutting alongside the Shropshire Union Canal.

There are already stability issues with this cutting as a consequence of groundwater drainage, and therefore it is essential that the rate and amount of water discharging to the watercourse is not increased, as this could create a risk of further instability in the cutting. As you are aware, land stability is a material planning consideration and is referred to in paragraphs 120-121 of the NPPF and is the subject of more detailed

discussion in the NPPG. We therefore consider that it is important that planning conditions are imposed to secure the provision of appropriate arrangements to ensure that discharges to the watercourse are restricted to greenfield rates.

We also note that a sewage treatment plant is also to be installed and that final effluent from this will also go to this watercourse. We would suggest that further details about the arrangements for this discharge, including both the volume and rate of discharge, are needed. We would also comment that it would not be appropriate for any discharge pipe to be located above the water level in the watercourse. We would suggest that this matter could be readily controlled via a planning condition to secure the detailed arrangements (see condition in Appendix 1).

We note that it is suggested that residual dirty water collected from washing down will be spread on the applicant's land, although it is not specified where. We would ask that details of these arrangements are also secured by condition so that the potential impact of the amount of water and the location it is to be spread over can be assessed, in the interests of minimising the risk of pollution of the local water environment (see condition in Appendix 1).

We would also comment that it is essential that the water supply from the Tyrley Borehole is not adversely affected. We would ask that the Local Planning Authority considers the potential impact of the proposal on this borehole and either ensures that this issue is addressed prior to determination of the application, or if appropriate, imposes planning conditions to secure adequate protection measures for the borehole if planning permission is granted.

Odour/Noise: We note that the noise assessment submitted with the application does not appear to have considered the canal and its users as being a noise sensitive receptor, nor does the potential impact of odour on canal users appear to have been assessed. We would ask that the Local Planning Authority considers these matters and whether the submitted Environmental Statement provides sufficient information on these matters to be sure that the canal and its users will not be adversely affected by noise or odour, or that adequate mitigation of any adverse impacts can be achieved. Should you consider that further information is necessary, we would ask that we are consulted again on any details as may be submitted.

- 4.1.7 **SC Highways** No objections, subject to conditions. Additional information from the applicant's agent seeks to clarify the position of the current two applications under consideration and in relation to the previous planning consent 11/04052/FUL for a building in connection with miscanthus pelleting operations.

It is noted also that both application site red lined areas have been amended to now include the access road to the A529. The access road leading to the site has in part been constructed in accordance with the 11/04052/FUL planning permission and subsequent discharge of conditions application 13/04495/DIS. Those approved access details could have been included as part of the two current applications to provide clarity to the current applications.

It is understood that the applicant currently farms 2000 acres of land of which 1,500 is owned and 500 acres is rented. No information is provided regarding the current crop of miscanthus being grown although the AD Plant application submission

indicates that 500 acres of the applicant's landholding would be required to produce the feedstock into the AD Plant together with the poultry manure produced by the broiler units. On the basis that the miscanthus building has not been developed but that miscanthus is being grown on the applicant's landholding, it is being harvested and taken away and no different therefore to any other crop grown on the land.

It has now been clarified that the proposed AD Plant building sits on the land formerly proposed to site the miscanthus production building. In effect therefore one would supersede the other, although the likelihood is that as the AD Plant and poultry unit complement one another, as has happened on other sites around the County, the highway authority would not contest the comments set out by Berrys in the latest supporting information which indicates the applicants intentions to pursue the AD Plant and not the miscanthus building. The fact is that the AD Plant building and permitted miscanthus building cannot coexist on the same site and should the applicant wish to pursue both, this would require a further planning application and assessment of the cumulative impact in traffic terms.

Having considered the traffic movements in connection with the current 2 applications for the AD Plant and poultry units, the highway authority consider that the traffic generated can be accommodated on the local highway network. Moreover, the highway authority advise that a highway objection to these proposals is not defensible.

The highway authority therefore raise no objection to the granting of consent to both applications subject to conditions (see Appendix 1).

- 4.1.8 **SC Drainage** Drainage details should be submitted for approval, and this can be dealt with through planning conditions (see Appendix 1).
- 4.1.9 **SC Trees** No objections. The Planning statement states that the proposed development does not require the removal of any trees or hedgerows bounding the site, nor those in the wider locale. As part of the proposed scheme additional planting is proposed around the perimeter of the site, to comprise native species trees, which will further serve to screen views of the development from all directions.
- 4.1.10 **SC Ecologist** Recommends conditions and informatives.

Protected sites: The site is around 12km from Aqualate Mere SSSI, part of the Midlands Meres and Mosses Ramsar site. Tyrley Canal Cutting SSSI, designated only for geological interest, is around 700m away and it is and over 10km to the next nearest SSSI.

Local Sites within 2km: Tyrley Spoil Banks, Shropshire Union Canal LWS (Staffordshire) 400m; Unnamed Ancient & Semi Natural Woodland 1.3km distant; The Sydnall LWS (ponds and wood in Shropshire) 1.2km distant

The proposed anaerobic digester falls just outside of the Natural England Impact Risk Zones and on consultation NE have provided no comments regarding protected sites.

An Environmental Permit will be required from the Environment Agency which will

regulate environmental impacts. The submitted air quality assessment does not include the Local Wildlife Sites. However I note that the EA letter dated 7th April 2015 states that they would not require detailed air quality assessment.

Great crested newts: Greenscape have assessed the suitability of six ponds, none of which were found to be suitable for great crested newt breeding. No further survey is recommended. An informative is recommended (see Appendix 1).

Hedgerows and trees: A section of hedgerow appears to be shown for removal south of the proposed biomass building. New planting is proposed around this building, which should include locally sourced native shrubs. A landscaping condition is recommended.

Bats: The proposals indicate around 150m between the riparian woodland to the east and the sheds. However the development will be close to the tree line to the north and therefore it is recommended that lighting is controlled towards tree lines/hedgerows/woodland. A condition is recommended to require approval of any external lighting (see Appendix 1).

Nesting birds: An informative is recommended (see Appendix 1).

Pollution prevention: Precautions will be needed to ensure polluted run-off does not reach ditches or watercourses as advised by the Environment Agency and Greenscape. Conditions should be imposed to require the EA recommendations, such as on secondary containment, to be followed.

4.1.11 **SC Archaeology** Recommends a planning condition.

The proposed development comprises an 800kW agricultural anaerobic digester plant and associated infrastructure, which will service an adjacent proposed two shed poultry unit development (application ref. 15/00924/EIA). This will be constructed just to the west of the site of a former farmstead – The Hollins – which on present evidence is understood to date from the 18th century and to have been demolished in the later 20th century. As a consequence there is a possibility that archaeological remains associated with this farmstead will be present on the proposed development site, although the overall the archaeological potential is considered to be low.

A Heritage Impact Assessment by Richard K Morriss & Associates has been submitted with the application to satisfy the requirements set out in Paragraph 128 of the NPPF. In their consultation response of 24 March 2015 English Heritage raises no objection to the proposed development. In view of the recommendations contained in the Heritage Impact Assessment, and in line with Paragraph 141 of the NPPF, it is advised that a programme of archaeological work be made a condition of any planning permission for this part of the proposed development. This would comprise an archaeological watching brief during all ground works (see condition in Appendix 1).

4.1.12 **SC Conservation** Any perceived harm to heritage assets (both designated and non-designated) is gauged as being neutral.

4.1.13 **SC Public Protection** It is noted that this installation will require a permit issued and

regulated by the Environment Agency. As a result noise and odour will be controlled through this regulatory regime. I do not expect noise or odour to affect the amenity of the area and therefore have no comment on this application. All noise and odour issues will be addressed by the permit and any complaints that arise should planning permission be approved should be directed to the Environment Agency to ensure that they are able to enforce any permit in place where necessary.

4.1.14 **Shropshire Fire and Rescue** As part of the planning process, consideration should be given to the information contained within Shropshire Fire and Rescue Service's "Fire Safety Guidance for Commercial and Domestic Planning Applications". It will be necessary to provide adequate access for emergency fire vehicles. Further advice has been offered and is set out in the Informatives in Appendix 1.

4.1.15 **Newcastle-under-Lyme Borough Council (adjacent authority, in Staffordshire)** Planning authority: The Planning Committee has resolved that they do not wish to object to the proposed development but requested that the routing of HGVs and other large vehicles be controlled through the use of condition or planning obligation.

4.2 Public Comments

4.2.1 The application has been advertised at the site boundary and in the local press. In addition 50 residential properties have been directly notified. 13 objections have been received. The objection reasons are summarised below.

Traffic and access

- Potential impact of heavy goods farm vehicle traffic
- Noise impact of additional traffic
- Disturbance due to hours of operation of arrivals and departures
- Concern over additional traffic delivering waste to boost electricity production
- Vehicle routing agreement required
- Additional traffic through Hinstock and Market Drayton
- If permitted, plans could be modified to result in huge amounts of increased traffic on local lanes already overburdened with heavy farm and HGV traffic

Visual and siting

- Adverse impact on Shropshire Union Canal
- Remoteness of unmanned site
- Scale of AD plant too large; will require additional animal and vegetable waste to power it
- Query where water supply will come from
- Old Springs Farm is a viable alternative location for both plants as heavy goods traffic would not be increased, and plants could be manned around the clock, and fewer residents around

Pollution

- Risk of groundwater contamination to private water supplies within 400 metres of the development
- Tyrley borehole feeds around 9 residential properties; already has elevated nitrates and other contaminants above safe levels
- Advice is that drinking water with nitrates above certain levels can cause Methaemoglobinaemia (blue baby syndrome); bacterial contamination can also increase this risk

- EA has only looked for boreholes within 250 metres
- Manure management plan is required
- Spreading activity is a high risk and should be the subject of a proper EIA
- Groundwater is 4.5 metres deep and excavations will approach nearer to the aquifer resulting in domestic and environmental risks
- Insufficient evidence provided regarding the known depth of the aquifer
- Additional hydrogeological investigations required
- Queries over source of water supply
- Unacceptable levels of odour, noise pollution, dust, flies and light pollution
- Enhanced risk of H1N viruses from intensive farming, increasing danger of avian flu and related health issues
- Excessive noise, vibration and dust from increase of chopping of miscanthus grass
- Potential for gas explosion
- Proximity to pond
- Waste would be spread on fields causing odour nuisance and fly infestations in a nitrate sensitive area

Principle

- perpetuation of factory farming that is stuck in an outdated "quantitative" mindset, focusing on economic and performance data alone instead of animal welfare, nutritional quality and environmental impact.
- Purely about profit generation and adds nothing to local amenity
- Unnecessary diversification

Welfare issues

- Broiler sheds are generally bare except for water and food points, with no natural light
- litter on the floor to absorb droppings which is not usually cleared until the chickens are gathered for slaughter
- The air can become highly polluted with ammonia from the droppings. This can damage the chickens eyes and respiratory systems and can cause painful burns on their legs (called hock burns) and feet.
- Confined chickens not able to adjust their environment to avoid heat, cold or dirt as they would in natural conditions
- Concern over temperature in sheds; if ventilation fails, birds can die
- Under the EU Directive, each bird has less floor space than the size of an A4 sheet of paper.

5.0

THE MAIN ISSUES

- Principle of development
- Site allocations considerations
- Relationship of current AD proposal to associated poultry unit proposal
- Siting, scale and design; impact on landscape character
- Local amenity considerations
- Historic environment considerations
- Traffic and access considerations
- Drainage and pollution considerations
- Ecological considerations

- Impact on Tyrley Canal Cutting SSSI

6.0 OFFICER APPRAISAL

6.1 Principle of development

6.1.1 Need and benefits of the proposal – development within the countryside: The National Planning Policy Framework advises that local planning authorities should not require applicants for energy development to demonstrate the overall need for renewable energy. Notwithstanding this, Core Strategy Policy CS5 states that applicants for developments in the countryside which include small-scale new economic development, including farm diversification, should demonstrate the need and benefit of the proposal. The site lies outside of any defined development boundary. As such the land is classed as 'countryside' and this policy therefore applies to the current proposal.

6.1.2 The UK has statutory targets for the production of electricity from renewable sources. Anaerobic Digester (AD) technology has central government support as a means of producing electricity through renewable means. The proposal would allow the use of livestock manure as an energy resource, allowing this to be used in conjunction with agricultural crops to generate a renewable form of electricity and an alternative nutrient rich soil conditioner. The proposed AD plant would generate 800kW of electricity per hour, estimated to be equivalent to meet the requirements of over 2,000 average UK households.

6.1.3 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, and advising that applications for renewable energy should be approved if the impacts are (or can be made) acceptable. 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). 'Saved' Policy 20 of the Waste Local Plan also provides support for AD developments. As set out above the proposed AD facility would provide significant environmental benefits and as such is supported in principle by national policy guidance and local planning policies.

6.2 Site allocations considerations

6.2.1 Adopted policy: The Waste Local Plan continues to provide the adopted policy in relation to the allocation of waste management sites. The application site is not allocated for waste use within the 'saved' policies of this Plan. However 'saved' Policy 8 provides for alternative sites to come forward subject to specified criteria being met. It should however be noted that whilst the site would accept some agricultural waste (poultry manure), approximately 77% of the feedstock for the site would comprise energy crops which are not classed as a waste material.

6.2.2 The Waste Local Plan deals mainly with non-agricultural waste types and does not incorporate any specific allocations for agricultural waste sites. As such, the current proposal would not prejudice the development of other allocated waste sites, and can therefore be accepted in principle as an alternative non-allocated site under 'saved' Policy 8.

6.2.3 Emerging policy: In relation to emerging policy, the SAMDev Plan has been through a process of examination and the Inspector has published Main Modifications. These

Modifications do not specifically refer to the main body text of draft policy MD14 regarding Waste Management Facilities, and it is therefore considered that significant weight can be given to this draft policy. This policy supports new AD facilities in appropriate locations, including the re-use of existing buildings, where it can be demonstrated that potential adverse impacts on the local community and the natural and historic environment can be satisfactorily controlled. These matters are discussed below.

6.3 **Relationship of current AD proposal to associated proposed poultry unit**

6.3.1 In addition to the current application for an anaerobic digester plant, the applicant has submitted a planning application for a poultry unit on adjacent land (ref. 15/00924/EIA). The two applications are inter-related in that it is proposed that the AD plant would use poultry manure from the poultry plant as a feedstock, and that the digestate from the AD plant would provide fuel which can be used in biomass boilers in the poultry development. Nevertheless the current proposal for an AD plant should be considered as a stand alone proposal.

6.3.2 The Supporting Statement notes that site selection has been influenced by the siting of the proposed poultry unit which will provide one of the main sources of feedstock. However, whilst the proposals are complementary, the applicant's agent has confirmed that the AD facility would still be viable if permission for the poultry units were refused. In this scenario, an alternative source of manure would be required, necessitating the importation of this from outside of the applicant's landholding. There would be no change to the sources of other feedstock, i.e. the energy crops, which would originate from the applicant's holding.

6.4 **Siting, scale and design**

6.4.1 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. It is noted that the site is not located within an area designated for landscape value.

6.4.2 The application site is located on slightly undulating ground which in general slopes down towards the canal to the east. The land to the west rises slightly up to the west before falling again towards the A529. To the north the land rises slightly before falling towards Tyrley Wharf. The landscape is characterised by fields with hedgerow boundary trees, in-field trees and ponds. The area of the application site is generally undeveloped however there is a concrete pad a few metres to the east which is used for the storage of bales. It should also be noted that the proposed site is located partly on land for which planning permission was granted in 2013 for the construction of a miscanthus grass storage and pelleting building (ref. 11/04052/FUL) which has yet to be built. The permitted dimensions of this are 24 metres x 49 metres x 12.4 metres high, i.e. similar dimensions to the storage shed for the proposed AD facility. If permission for the AD plant is granted that storage building would not be constructed (and could not be built as the respective footprints overlap). The cumulative impact of the AD plant and the storage building is therefore not a relevant consideration.

- 6.4.3 A Landscape and Visual Impact Assessment (LVIA) has been undertaken in support of the associated planning application for the poultry units on adjacent land. This assesses the landscape value of the area as low to medium. It states that the nature of the views are relatively short distance, that the susceptibility to change (the ability of the landscape receptor to accommodate the proposed development) is medium to high, and the overall sensitivity of the landscape is considered to be low. Officers concur with this assessment.
- 6.4.4 The proposed development would be located within the primary area of the land owned by the applicant, which extends to 445 hectares. This primary area is accessible internally from the proposed site. The intention would be that the poultry manure from the adjacent proposed sheds would be fed into the AD plant, along with energy crops grown on adjacent farmland. The resulting digestate would be used in the biomass boilers to provide heat for the poultry buildings, and also as an organic fertiliser on adjacent agricultural land. Biogas produced as part of the AD process would be captured and used as fuel for a Combined Heat and Power (CHP) engine which would produce electricity and heat. This would be utilised in the poultry buildings with any surplus electricity being exported to the National Grid. As such it is considered that in principle the proposed site for the poultry unit, together with the AD facility is well located in relation to sources of feedstock and receptors of digestate.
- 6.4.5 Due to the gently sloping nature of the site the proposed development would be constructed on three level platforms, reducing in height in a northerly direction in line with the topography. The AD structures would be sunk below the existing ground level, thereby reducing their visibility in the landscape.
- 6.4.6 Views into the site from surrounding public areas and private properties are generally limited. This is due to the distance between the site and such receptors, intervening vegetation and the topography of the land. Views of the proposed development from the towpath of the canal to the east would be restricted given that the canal is in a cutting, and also that there is a thick belt of woodland on the western side of the canal. Nevertheless the higher parts of the development would be visible from some surrounding viewpoints. In particular some views of the development would be likely to be gained from some residential properties to the north-west and south-west, particularly from upper floor windows.
- 6.4.7 It should be noted that these views would be from some distance: the nearest property that is likely to have a view of the development is located more than 440 metres away. In relation to views from the public right of way to the south-east, these are likely to be from a distance of 290 metres or more. In addition the proposed development would be agricultural in appearance and would therefore not be incongruous in this rural landscape.
- 6.4.8 The landscaping scheme proposed for the development includes the provision of a 2.5 metres high earth bund along the western side of the site, with landscape planting around the perimeter of the site. In principle Officers consider that this landscaping proposal is appropriate in minimising views of the development from surrounding viewpoints. The detailed matters can be agreed as part of a landscaping planning condition.

- 6.4.9 Officers consider that the likely views of the development would not be significant given the distance and the proposed landscaping. In addition Officers consider that whilst the proposed development would have some impact upon the landscape character of the area, the proposal is of an acceptable design and incorporates satisfactory mitigation against visual impacts. As such the proposal can be accepted in relation to Core Strategy Policy CS6.
- 6.5 **Local amenity considerations**
- 6.5.1 Noise: It is anticipated that the main noise-generating element of the proposed development would be the CHP engine, and the movement of plant and vehicles. The CHP housing would attenuate noise to a level of 65dBA at 10 metres. Vehicular movements would include those associated with the importation and exportation of feedstock to the site, and a JCB loader transporting feedstock to the feeder. Loading of the feeder would take place during 1 to 2 hours per day.
- 6.5.2 A Noise Impact Assessment report has been submitted as part of the planning application. This has identified the likely noise levels that would be generated by the proposed facility and assesses these against the criteria set out in the relevant BS4142. The report concludes that noise from the AD facility would be at a level that this standard indicates there would be a 'low impact'. The report states that the noise levels would be within guidelines set out under World Health Organisation advice.
- 6.5.3 The Council's Public Protection Officer has confirmed that noise is unlikely to affect the amenity of the area. On the basis of the distance of the site from sensitive receptors and the likely noise levels it is not considered that the proposed development would adversely affect residential amenity.
- 6.5.4 Odour and flies: Maize, beet and rye feedstock would be stored in the silage clamps, and these would be covered with polythene to preserve the quality and minimise odour release. Chicken litter would be stored within the enclosed feedstock building. The main AD process would take place in the digester tank which is completely sealed, and the transfer of materials from the feeder to the digester tank would be within fully enclosed pipework. The application confirms that, having left the feeder, at no time would any material be exposed directly to the atmosphere until digested and released as the odour-free digestate.
- 6.5.5 The resulting digestate, to be spread on the surrounding agricultural land, is largely odourless. The proposed AD facility therefore offers benefits in terms of odour containment relative to the current situation on the farm which involves the spreading of raw manure and artificial fertilisers.
- 6.5.6 It is considered that the proposed development has been satisfactorily designed, including in relation to the separation distance to the nearest residential properties, to ensure that the risk of adverse odour in the local area would be minimised.
- 6.5.7 It is noted that the AD facility would need to be operated under an Environmental Permit which would control detailed elements of the process, including noise and odour management. As part of this the Environment Agency has confirmed that the As mentioned in the submission, we note that the applicant is willing to undertake a background noise assessment prior to commissioning. In addition the Agency has confirmed that the Environmental Permit would require that a detailed Odour

Management Plan and Noise Management Plan are provided if the activities give a risk to pollution. The Agency has advised that it does not anticipate any significant cause for concern at this stage. Overall it is considered that the proposal has been designed to ensure that the facility can be operated without adversely affecting local amenity due to noise, odour or other impacts. In addition satisfactory safeguards would be provided as part of the Environmental Permitting process to address any specific issues. The proposal is therefore in line with Core Strategy Policy CS6.

6.6 **Historic environment considerations**

6.6.1 Core Strategy Policy CS17 requires that developments protect and enhance the diversity, high quality and local character of Shropshire's historic environment. Paragraph 134 of the NPPF requires that, where a development proposal will lead to less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against the public benefits of the proposal. In addition, special regard has to be given to the desirability of preserving Listed Buildings or their setting or any features of special architectural or historic interest which it possesses and preserving or enhancing the character or appearance of the Conservation area as required by section 66 and 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990.

6.6.2 A Heritage Impact Assessment has been undertaken as part of the planning application. This identifies that the nearest listed building is Hollings Bridge that runs across the canal cutting to the east of the site. The proposed development would not be visible from this bridge, or from that part of the canal that is designated as a linear Conservation Area. The Council's Conservation Officer concurs with the conclusions of the Heritage Impact Assessment that harm to heritage assets (both designated and non-designated) would be neutral. It is considered that the proposal is acceptable in relation to Core Strategy Policy CS17.

6.6.3 The County Archaeologist has recommended that a programme of archaeological work is undertaken and this can be secured through a planning condition, as detailed in Appendix 1 below.

6.7 **Traffic and access considerations**

6.7.1 The access to the site from the A529 would be via an access point that is currently being constructed under the implementation of a planning permission for a miscanthus grass storage and pelleting building. This access is acceptable for the current application.

6.7.2 The primary HGV movements associated with the proposed development would be those relating to the delivery of the energy crops to the facility. A subsidiary element would be those vehicles delivering poultry manure. The energy crops would be grown on the applicant's farmland. The application states that the primary area of such land (73%) is accessible via internal tracks from the application site, with no requirement to utilise the public road network. Poultry manure would derive from the adjacent proposed poultry units (subject to planning permission being granted), and would therefore not need to be transported on public highways. Outputs would comprise liquid digestate and fibre, both of which would be utilised on the applicant's farmland.

The application states that the proposal would generate 377 vehicle movements per

6.7.3 annum on the public highway, made up of 201 movements relating to feedstock and 176 movements relating to outputs. The application states that these are likely to be worst case figures and that they assume that none of the fibre would be used as fuel for the biomass boilers of the proposed poultry development.

6.7.4 The proposed development would therefore be expected to generate approximately 1 vehicle movement per day, which is not considered to be significant in highway terms.

6.7.5 It is noted if the AD facility is permitted, the miscanthus grass storage and pelleting operation would not go ahead. Therefore the AD traffic would replace that which would have been associated with the pelleting operation. The Council's Highways Officer considers that the amount of traffic generated by both the proposed AD facility and the proposed poultry unit can be accommodated on the local highway network, and has raised no objections to the proposal. It is not considered that a refusal of the proposed development on highways grounds could be sustained. The conditions recommended by the Highways Officer can be imposed on any decision notice. Subject to this it is considered that the proposed development would not have an adverse impact upon highway safety in line with Core Strategy Policies CS6 and CS7.

6.8 **Drainage and pollution considerations**

6.8.1 Core Strategy Policy CS18 seeks to reduce flood risk and avoid adverse impact on water quality and quantity.

6.8.2 Surface water drainage: The site is located within Flood Zone 1 indicating that the risk of flooding is low. The submitted Drainage Report and Flood Risk Assessment states that the use of soakaways to deal with surface water drainage is highly unlikely to be appropriate due to limited ground porosity. The design of the surface water drainage system is based upon sustainable drainage principles. It is proposed that surface water drainage would be collected in a mix of open and stone filled trenches and a piped system to an attenuation pond. It is proposed that this attenuation pond would have an outfall to a watercourse to the east.

6.8.3 The Canal and River Trust has noted that this watercourse runs close to the top of Woodseaves Cutting, a deep cutting alongside the Shropshire Union Canal, and that there are already stability issues with this cutting as a consequence of groundwater drainage. The Trust has advised that it is essential that the rate and amount of water discharging to the watercourse is not increased. The submitted drainage report states that flow rates from the attenuation pond would be restricted to greenfield runoff rates. This would ensure that the proposal would not have an adverse affect on the receiving downstream watercourse, and on the cutting.

6.8.4 The Council's Drainage Officer has confirmed that detailed matters relating to surface water drainage management can be dealt with by planning condition, and an appropriate condition is set out in Appendix 1.

6.8.5 Dirty water management: The concerns of the Parish Councils, the Canal and River Trust and some residents regarding the potential impact of the proposals on private water supplies are noted. The proposed AD facility would comprise a sealed system such that, once feedstock is transferred to the digester tank, the process is wholly

enclosed. No material would leave the plant other than the treated digestate. It is proposed that dirty water/effluent collected from the silage clamps would be directed to a sump before being fed to the slurry/buffer tank which would recycle the effluent through the AD process. Detailed matters relating to pollution prevention measures to be incorporated within the site design would be dealt with through the Environmental Permitting process, and it is noted that the Environment Agency have confirmed that they do not anticipate any particular concerns at this stage. The Agency notes that the proposal includes an appropriate secondary containment system to protect groundwater and surface water systems, and that the specification for this would need to be included within the application for the Environmental Permit.

The area is designated as a Nitrate Vulnerable Zone, and the spreading of digestate onto agricultural land is controlled under separate regulations.

6.8.6

6.9 **Ecological considerations**

6.9.1 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. It is noted that the application site does not form part of any statutory or non-statutory designated site for nature conservation.

6.9.2 The planning application is accompanied by a Phase 1 Environmental Survey report. A survey was undertaken to determine the presence of protected species and the potential for impact on habitats of ecological value. The report states that no protected species were found as part of the survey. The survey assessed six ponds in the area, and found that none were suitable for great crested newt breeding. The report states that the existing use of the land comprising the growing of energy crops is considered to be of low ecological value. Officers concur with this. The Council's Ecologist has not raised any specific concerns regarding the proposals, and the conditions that have been recommended regarding lighting and landscaping can be added if permission is granted.

6.9.3 The comments of the Ecologist that conditions should be imposed to require the EA recommendations on secondary containment of plant are noted. However it should be noted that the AD facility will need to obtain an Environmental Permit from the EA, and it is considered that the Environmental Permitting system will adequately cover detailed matters relating to the specification of pollution prevention systems. As such it is not considered that planning conditions to deal with these detailed matters are necessary.

6.9.4 Officers consider that the proposal would not result in the loss of habitat of significant value, or adverse impact on protected species, and that the landscaping proposals would provide some ecological benefit. As such the proposal can be accepted in relation to Core Strategy Policy CS17.

6.10 **Impact on Tyrley Canal Cutting SSSI**

6.10.1 It is acknowledged that some objections to the proposal, including those from the Parish Councils, have raised concerns over the potential impact of the proposal on the Tyrley Canal Cutting Site of Special Scientific Interest (SSSI). This has been designated for its geological interest, in particular for showing details of river channel

formation. The SSSI is located adjacent to the canal, approximately 680 metres from the application site. Given this distance it is not anticipated that the proposed development would adversely affect the SSSI, either directly or indirectly. Natural England has raised no objections to the proposals.

7.0 **CONCLUSION**

- 7.1 The proposal to develop an anaerobic digestion facility at Woodseaves in conjunction with an associated poultry unit proposal would bring significant environmental and agricultural benefits by utilising energy crops from surrounding farmland and manure from the poultry units for the production of a nutrient-rich fertilizer replacement and the production of renewable energy.
- 7.2 The proposed facility has been satisfactorily designed in terms of siting and layout, including in relation to the proposed poultry units, to ensure that impacts on residential and local amenity can be controlled within acceptable limits. Further controls can be imposed through planning conditions to provide additional safeguards. The proposed buildings and plant would be generally agricultural in appearance, and the site design takes advantage of screening from existing hedgerows and incorporates additional landscaping to help to integrate the development within the rural landscape.
- 7.3 The proposal would not result in significant additional traffic on the public highway and the proposed access from the public highway, via a new access point which is currently being constructed, is acceptable. The proposal incorporates satisfactory site management and engineering controls to minimise the risk of pollution, and further detailed controls would be imposed by planning condition and through the Environmental Permit.
- 7.4 National and local planning policies provide strong support for renewable energy applications including anaerobic digestion proposals. The proposal would have some impact upon the local landscape character of the area however it is not considered that this would be unacceptable, particularly when considering the wider benefits of the proposal, Given the controls and safeguards that can be incorporated into the design of the facility to address local concerns and other issues, it is considered that the proposal can be accepted in relation to Development Plan and other relevant policies. On this basis it is recommended that planning permission is 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 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

- Strategic Objective 9 seeks to promote a low carbon Shropshire by measures that include the generation of energy from renewable sources
- Policy CS5 (Countryside and Green Belt)
- Policy CS6 (Sustainable Design and Development Principles)
- Policy CS13 (Economic Development, Enterprise and Employment)
- Policy CS17 (Environmental Networks)
- Policy CS18 (Sustainable Water Management)
- Policy CS19 (Waste Management Infrastructure)

10.1.2 Waste Local Plan ('saved' policies)

- Policy 20 (Biogas and Anaerobic Digestion Facilities) – stating that proposals for the development of biogas and anaerobic digestion facilities which enable the best practicable use of by-products from the digestion process for energy recovery and soil improvers will be permitted in appropriate locations, where the proposal complies with other relevant policies in the Development Plan.
- Policy 25 (Development Control Considerations)

10.2 Central Government Guidance:

10.2.1 National Planning Policy Framework (NPPF): The NPPF states that one of the core planning principles is that planning should support the transition to a low carbon future and encourage the use of renewable resources (para. 17). Amongst other matters, the NPPF: supports a prosperous rural economy, and states that plans should promote the development of agricultural businesses (Chapter 3); 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); 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). The NPPF states that local planning authorities should not require applicants for energy development to demonstrate the overall need for renewable or low carbon energy and recognize that even small-scale projects provide a valuable contribution to cutting greenhouse gas emissions, and should approve applications for renewable or low carbon energy if its impacts are (or can be made) acceptable (para. 98).

10.2.2 Planning practice guidance for renewable and low carbon energy: This provides advice on the planning issues associated with the development of renewable energy. It 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. For biomass proposals, the guidance states that considerations that can affect their siting include appropriate transport links.

10.2.3 National Planning Policy for Waste (October 2014)

10.3 Emerging policy:

10.3.1 Site Allocations and Development Management (SAMDev) document: Relevant draft Development Management policies include:

- MD2 (Sustainable Design)
- MD7b (General Management of Development in the Countryside)
- MD12 (Natural Environment)
- MD14 (Waste Management Facilities)

10.4 Relevant Planning History:

11/04052/FUL Erection of a building for pelleting/storage of biomass crop (Miscanthus) with attached office; installation of roof mounted PV solar panels; provision of a weighbridge; provision of visibility splay and associated works; landscaping scheme to include earth bund (Amended Description) PERMITTED 5th April 2013

14/05167/SCO Scoping opinion for the erection of four poultry units, feedstock clamps and anaerobic digester plant SCOPING OPINION 17th February 2015

15/00924/EIA Erection of two poultry sheds and feed bins, ancillary works including access track and associated landscaping works CURRENTLY UNDETERMINED

11. Additional Information

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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The application ref. 15/01108/MAW and supporting information and consultation responses.
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Cabinet Member (Portfolio Holder) Cllr M. Price
--

Local Member Cllr Andrew Davies (Cheswardine)
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Appendices APPENDIX 1 - Conditions

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

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

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

2. The development shall be carried out strictly in accordance with the approved plans and drawings Reason: For the avoidance of doubt and to ensure that the development is carried out in accordance with the approved plans and details.

CONDITION(S) THAT REQUIRE APPROVAL BEFORE THE DEVELOPMENT COMMENCES

3. No development shall take place until a detailed scheme for the disposal of surface water and all treated foul sewage, to include discharges to any watercourses and discharge rates, has first been submitted to and approved in writing by the Local Planning Authority, together with a timetable for its installation. The development shall thereafter only be implemented in accordance with the approved scheme.

Reason: To ensure that appropriate drainage arrangements are in place which minimise the risk of flooding of adjoining land, prevent pollution and minimises the risk of creating land instability in the adjacent Woodseaves Canal Cutting.

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

Reason: The development site is known to have archaeological interest, and therefore an appropriate programme needs to be agreed prior to the development proceeding.

5. No development hereby permitted shall take place until details of the external materials and colour treatment of all plant and buildings have been submitted to and approved in writing by the local planning authority. The development shall be undertaken in accordance with the approved details, and retained as such for the lifetime of the development.

Reason: To ensure an acceptable appearance to protect the visual qualities of the area, and as such these details need to be approved prior to the development proceeding in order to ensure a sustainable development.

6. No above ground works shall be commenced until full details of both hard and soft landscape works have been submitted to and approved in writing by the local planning authority. The landscape works shall be carried out in full compliance with the approved plan, schedule and timescales. Any trees or plants that, within a period of five years after planting, are removed, die or become, seriously damaged or defective, shall upon written notification from the local planning authority be replaced with others of species, size and number as originally approved, by the end of the first available planting season.

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

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

Reason: In the interests of highway safety.

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

8. Prior to the development hereby permitted being first brought into use the junction onto the A529 and access road leading to the site, indicatively shown on Drawing no.SA18459-01 Rev A, shall be laid out and constructed fully in accordance with details and a specification to be first submitted to and approved in writing by the Local Planning Authority.

Reason: In the interests of highway safety.

9. 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.

10. Within two months of the commencement of the development the operator shall submit for the approval of the Local Planning Authority a complaint procedures scheme for dealing with noise, odour, traffic and other amenity related matters. The submitted scheme shall set out a system of response to verifiable complaints received by the Local Planning Authority. This shall include:

- i. Investigation of the complaint;
- ii. Reporting the results of the investigation to the Local Planning Authority;
- iii. Implementation of any remedial actions agreed with the Authority within an agreed timescale.

Reason: To put agreed procedures in place to deal with any verified amenity related complaints which are received during site operation.

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

11. (a) The maximum tonnage of materials imported to the site in any calendar year shall not exceed 14,200 tonnes. For the avoidance of doubt a calendar year shall comprise the period between 1st January and 31st December.

(b) The Site operator shall maintain a record of the tonnage of materials including energy crops and agricultural wastes processed at the anaerobic digester plant per year. The record shall be made available to the Local Planning Authority upon prior written request.

Reason: To ensure that the development remains within the general levels of activity specified in the planning application in the interests of highway safety and general amenity, and facilitate monitoring of tonnages imported to the anaerobic digestion facility by the Local Planning Authority.

12. Food waste shall not be processed at the site.

Reason: To protect local amenity and prevention pollution.

13. No construction works shall be undertaken outside of the following hours: 0800 and 1800 Monday to Friday; and 0800 to 1300 on Saturdays. No such works shall take place on Sundays or bank holidays.

Reason To protect the amenities of the local area.

14. Vehicle movements associated with the delivery and of feedstock to/from the site via the public highway shall not take place other than between the following hours: Monday to Friday: 07:30- 18:00,

Saturdays: 08:00 - 13:00.

No such vehicle movements shall take place on Sundays or Bank Holidays.

Reason: To protect local amenity.



Committee and Date
 North Planning Committee
 2nd September 2015

Item
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 Public

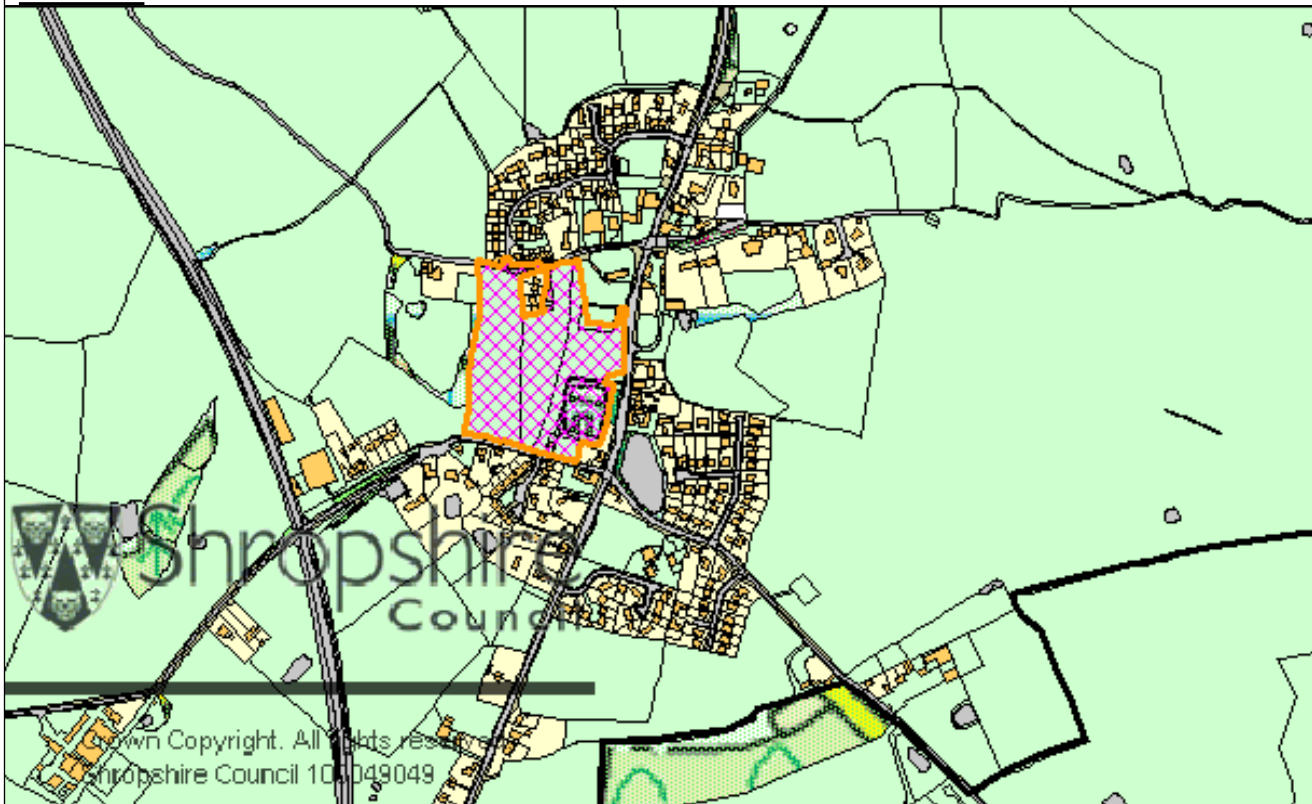
Development Management Report

Responsible Officer: Tim Rogers

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

Summary of Application

Application Number: 14/03995/OUT	Parish: Hadnall
Proposal: Outline application (access for approval) for residential development of up to forty dwellings, the provision of public open space and car park and restoration of moated site (amended description)	
Site Address: Land Off A49 Hadnall Shropshire	
Applicant: Sansaw Estates And Galliers Homes	
Case Officer: Jane Raymond	email: planningdmc@shropshire.gov.uk
Grid Ref: 352120 - 320067	



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Recommendation:- Grant Permission subject to the conditions set out in Appendix 1 and a S106 agreement to secure the relevant affordable housing contribution at the time of the Reserved matters application and the restoration and future maintenance of the moated site.

REPORT

ADDENDUM TO PREVIOUS OFFICER REPORTS – Re: The SAMDev Plan Main Modifications

1.0 Background

- 1.1 On the 17th February 2015 it was resolved by the Northern Planning Committee to grant outline planning permission (to include access) for residential development of up to forty dwellings to include the provision of public open space and car park and restoration of moated site, subject to conditions and to the signing and completion of a Section 106 Legal Agreement to secure the affordable housing financial contribution in line with Core Strategy policy CS11 and the Councils' adopted SPD on the 'Type and Affordability of Housing' and the restoration and future maintenance of the moated site..
- 1.2 Since that time the applicant has progressed the S106 agreement to a point where it is now ready to be signed and returned to the Council for sealing. There have also been further developments with the Site Allocations and Management of Development (SAMDev) Plan. Since September 2014 the SAMDev examination has been undertaken, main modifications have been published and consulted on and the Council is awaiting the Inspectors report. As such, in accordance with paragraph 216 of the NPPF, the Local planning Authority now considers that the weight which can be given to some policies within the SAMDev has altered.
- 1.3 The following is a review of the 'Principle of Development' previously presented to Committee for re-consideration in light of the publications of the SAMDev Plan main modifications.

2.0 Impact of SAMDev progress

- 2.1 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 starting point for decision taking is therefore the development plan. Proposals that accord with an up-to-date plan should be approved, whilst proposals that conflict with the plan should be refused, unless there are other material considerations that indicate otherwise (para 12 of the National Planning Policy Framework (NPPF) refers).
- 2.2 The NPPF constitutes guidance for local planning authorities and is a material consideration to be given significant weight in determining applications. At para 14 the NPPF sets out the presumption in favour of sustainable development as a golden thread running through plan-making and decision-taking. At para. 197 the NPPF reiterates that in assessing and determining development proposals, local

planning authorities should apply the presumption in favour of sustainable development. The NPPF is a material consideration but does not change the statutory status of the development plan for decision taking and the presumption in favour of sustainable development does not outweigh the development plan but it is one of the considerations that need to be weighed alongside it. The starting point for determining all applications is the local development plan as indicated by paragraph 12 of the NPPF and the relevant local plan policies relevant in assessing the acceptability of this housing application in principle are discussed below:

- 2.3 The Development Plan - The development plan presently comprises the adopted Shropshire Core Strategy 2011 and a range of Supplementary Planning Documents. The Policies in the North Shropshire Local Plan (NSLP) remain saved policies until the adoption of the SAMDev, however the policies in the NSLP could be argued to be out of date due to their age and as the SAMDev progresses the weight that can be given to NSLP policies reduces.
- 2.4 Adopted policy – Within the NSLP the site is outside the development boundary for Hadnall on the proposals map and is not an allocated site under saved policy H4 and is therefore classed as countryside. The relevant Core Strategy policy that relates to development in the countryside is CS5 which seeks to control development such that only limited types of development (accommodation for essential countryside workers and other affordable housing for example) is permitted. The proposal therefore conflicts with this policy being predominantly for open market housing. CS4 is also relevant and outlines that development, which amongst other things, provides housing for local needs and that is of a scale appropriate to the settlement will be allowed in villages in rural areas that are identified as Community Hubs and Clusters within the SAMDev DPD and not allowing development outside these settlements unless it meets policy CS5.
- 2.5 Emerging policy - The SAMDev plan is now considered to be at an advanced stage. The SAMDev Plan Inspector has recently confirmed the proposed main modifications to the plan following the examination sessions held in November & December 2014. The main modifications were published on 1st June 2015 for a 6 week consultation period. This means that any plan content not included in the schedule of proposed main modifications may be considered to be sound in principle in accordance with NPPF paragraph 216. Therefore significant weight can now be given to SAMDev policies in planning decisions where these are not subject to modifications.
- 2.6 Within the SAMDev process the Parish Council have not put the settlement of Hadnall forward for development and it has not been identified as a Community Hub or Cluster settlement. Development of the proposed site would therefore be contrary to the housing development policy in both adopted and emerging policy.
- 2.9 At para 10 the NPPF states that policies in local plans should follow the approach of the presumption in favour of sustainable development, with clear policies that will guide how the presumption should be applied locally. In order for policies contained in the SAMDev Plan to proceed to adoption they will therefore need to comply with the sustainable guidance set out in the Framework. The policies relating to the location of housing within settlements in the countryside are not included in the schedule of proposed main modifications and therefore these

policies are considered to be sound and in accordance with the NPPF guidance. Therefore significant weight should now be given to the settlement policies in the SAMDev plan and as development of this site would be contrary to this plan the proposal should be refused unless there are material considerations that indicate otherwise and weigh in its favour.

3.0 Other material considerations

3.1 Officers consider that there are other material considerations which should be taken into account in considering the application and weighed against the conflict with the adopted and emerging policy relating to housing prior to the adoption of SAMDev:

3.2 Sustainable development: The February 2015 report outlined the sustainability credentials of the proposal and concluded that whilst the social and economic benefits of this proposal (including the provision of on-site affordable housing) would not be significant there would be no significant adverse impacts of allowing residential development of this site which is considered to be in a sustainable location within a village that has some local service provision including a primary school and a regular bus service to the larger settlements of Shrewsbury Whitchurch and Wem.

3.2 Environmental impact: The previous report identified that the proposal would represent development of greenfield land classed as countryside and that the development of it would change its character. However it was considered that the development would not extend the natural boundaries of the settlement or intrude into the countryside being enclosed by existing development and roads on three of its four sides and being within the centre rather than on the edge of the village.

3.3 Moated site: Part of the site is occupied by the Scheduled Monument of Moated site and associated ridge and furrow cultivation remains. The application includes the restoration and future management of the moated site and Historic England made the following comments:

English Heritage has undertaken pre-application discussions with the applicant regarding these designated heritage assets. The discussions have concerned the location and density of development, and the achieving of wider community benefits that will enhance the historic environment, especially the medieval moated site, as an accessible community asset.

A legally binding planning agreement, such as a Section 106 agreement, should be secured to provide a Management Plan for the scheduled ancient monument of Hadnall Moated site. The Management Plan should set out works to clear vegetation from the site and establish permanent grass cover, site interpretation, and a long term maintenance plan. The provision of this public open space and improvements to the historic environment should be fairly and reasonably related in scale and kind to any permitted development, and is in our view necessary to make the development compliant with the NPPF and sustainable in overall terms.

It is therefore considered that this is a material consideration in favour of this proposal.

- 3.4 Footpath links: The proposal also provides opportunity for pedestrian access to both the North and the South of the site and to the existing and proposed open space and village green to the East providing improved connectivity and alternative pedestrian routes for existing residents and the community.
- 3.5 Parking: The indicative layout also indicates a car park for use by the bowling club and the wider community and this is welcomed as the PC has identified a lack of parking within the village.
- 3.5 Boosting housing supply: Although the Council can currently demonstrate a 5 year land supply this proposal will contribute to the overall housing supply figure.
- 3.6 Deliverability: The applicant is a local house builder (Galliers Homes) and the Reserved Matters application is due to be submitted in the next few weeks with development planned to commence soon after a decision on the reserved matters application. The layout plan that has been prepared for the Reserved Matters application has been submitted to demonstrate the commitment of the applicant to progress the development of this site. It is therefore considered that the application is not speculative but that it is a highly deliverable sustainable housing site.
- 3.7 Furthermore, the outline consent proposed will require submission of the reserved matters application within 12 months of the date of the decision and the agent has confirmed that the S106 will be signed and returned to the Council before the September committee meeting. These matters of progress of the application to determination are also material planning considerations to be given weight in the decision and will influence deliverability.
- 4.0 **Conclusion**
- 4.1 Development of the proposed site would be contrary to the local development plan policies for the location of housing in both adopted and emerging policy. It is now considered that emerging policy not subject to modification is given more weight than when this application was previously determined by members in February. However weight must still be given to other material considerations and those relevant to the determination of this application have been outlined above. Prior to adoption of SAMDev it is considered that the benefits of the proposal outlined above still tip the balance in favour of supporting this application.
- 4.2 It is also considered that the indicative layout plans submitted show that the layout will be sympathetic to the scale and density of the existing development to the North providing a mix of dwellings of various footprints and plot sizes and with no adverse impact on local or residential amenity and that would also not result in significant or demonstrable harm to the character and appearance of the locality. The proposal would not result in the loss of any significant trees or hedgerow, and would have no adverse highway or ecological implications subject to the recommended conditions being imposed. Landscape details and open space provision will be fully considered and determined as part of the application for reserved matters. The on-site affordable housing provision and the restoration and future maintenance of the moated site will be secured by the S106 agreement. It is therefore considered that the proposal accords with Shropshire LDF policies CS6,

CS11, and CS17 and the aims and provisions of the NPPF.

4.3 Accordingly the recommendation remains one of approval, subject to the S106 and subject to the conditions set out in appendix 1.

5.0 Risk Assessment and Opportunities Appraisal

5.1 Risk Management

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

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

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

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

5.2 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.

5.3 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.

6.0 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.

7. Background

Relevant Planning Policies

Central Government Guidance: NPPF

Core Strategy and Saved Policies: CS4, CS5, CS6, CS11 and CS17

RELEVANT PLANNING HISTORY:

NS/96/00194/FUL Land part OS 1500 – Hadnall: erection of four low cost houses with parking and formation of new vehicular and pedestrian accesses. Approved 21st April 1997

8. Additional Information

View details online:

List of Background Papers: File14/03995/OUT including Report to 12 February North Planning Committee
Cabinet Member (Portfolio Holder) Cllr M. Price
Local Member Cllr Simon Jones
Appendices APPENDIX 1 - Conditions

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

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

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

2. Application for approval of reserved matters shall be made to the local planning authority before the expiration of one year 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. As part of the first application for reserved matters an updated FRA, and a surface water drainage strategy shall be submitted for approval and shall be implemented as approved prior to the first occupation of the dwellings.

Reason: To ensure that all potential flood risk to the development has been addressed and to minimise the risk of surface water flooding.

5. As part of the first application of reserved matters, in addition to a proposed landscaping scheme, a detailed design and programme of works for the restoration of Hadnall Manor (a scheduled ancient monument of national importance) to be used as an accessible and attractive public open space shall be submitted for approval. The approved programme of works shall be fully implemented prior to the occupation of more than 50% of the development.

Reason: To ensure the restoration and preservation of the scheduled monument

CONDITION(S) THAT REQUIRE APPROVAL BEFORE THE DEVELOPMENT COMMENCES

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

Reason: The proposed development site has high archaeological potential

7. Prior to the commencement of development full engineering details of the access, visibility splays, footway provision along Station Road, internal road layout, parking and turning areas shall be submitted to and approved in writing by the Local Planning Authority; the approved scheme shall be fully implemented prior to any dwelling being first occupied.

Reason: In the interests of highway safety.

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

8. Work shall be carried out strictly in accordance with the Further Information Regarding Great Crested Newt Mitigation by Turnstone Ecology dated 9th January 2015.

Reason: To ensure the protection of great crested newts a European Protected Species

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

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

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

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

11. Prior to occupation, a "lighting design strategy for biodiversity" shall be submitted to and approved in writing by the local planning authority. The strategy shall:
 - a) Identify those area/features on site that are particularly sensitive for bats and that are likely to cause disturbance in or around their breeding sites and resting places or along important routes used to access key areas of their territory, for example, for foraging; and
 - b) Show how and where external lighting will be installed (through the provision of appropriate lighting contour plans and technical specifications) so that it can be clearly demonstrated that areas to be lit will not disturb or prevent the above species using their territory or having access to their breeding sites and resting places.
 All external lighting shall be installed in accordance with the specifications and locations set out in the strategy, and these shall be maintained thereafter in accordance with the

strategy. Under no circumstances should any other external lighting be installed without prior consent from the local planning authority.

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



Committee and Date
 North Planning Committee
 2nd September 2015

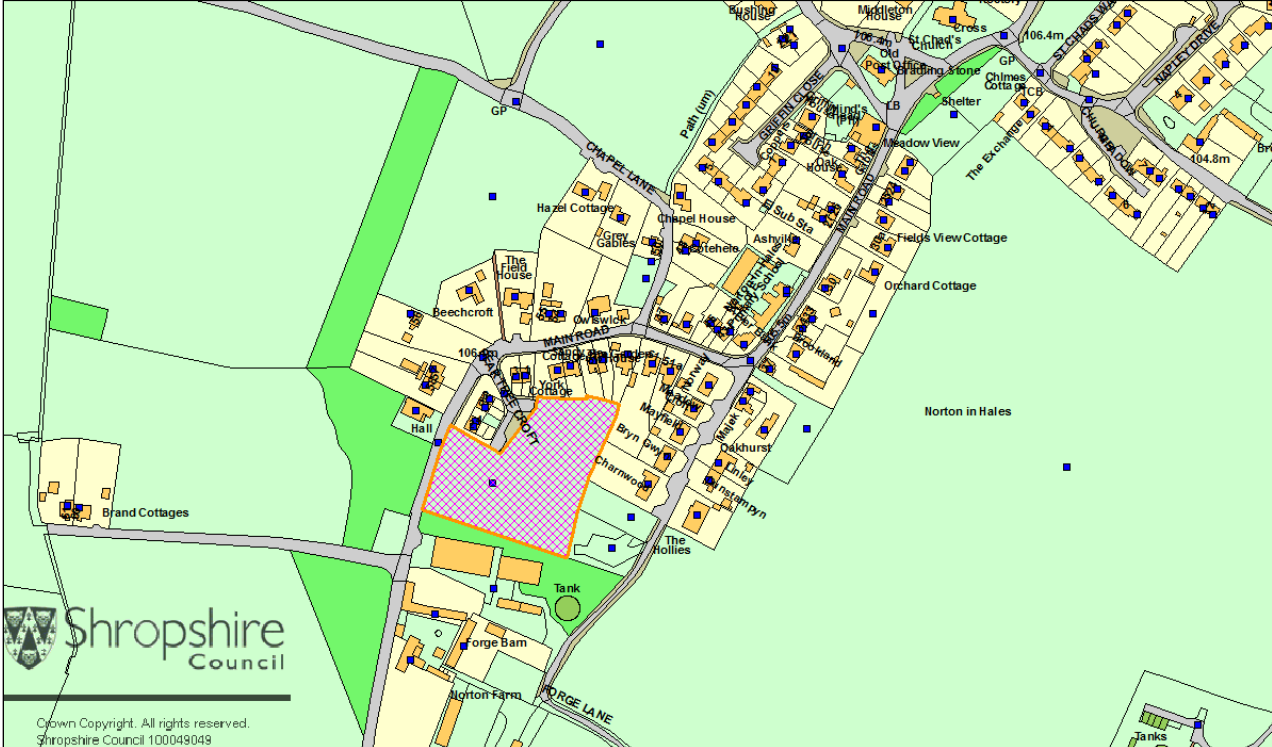
Item
8
 Public

Development Management Report

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

Summary of Application

<u>Application Number:</u> 14/00260/FUL	<u>Parish:</u>	Norton in Hales
<u>Proposal:</u> Outline application for the erection of 14 detached dwellings		
<u>Site Address:</u> Land North of Norton Farm, Main Road, Norton in Hales, Shrewsbury		
<u>Applicant:</u> Mr Glenn James		
<u>Case Officer:</u> Richard Denison	<u>email:</u> planningdmne@shropshire.gov.uk	
<u>Grid Ref:</u> 366895 - 324761		



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Recommendation:-**Grant Permission subject to the conditions set out in Appendix 1.****REPORT****ADDENDUM TO PREVIOUS OFFICER REPORTS
Re: The SAMDev Plan Main Modifications****1.0 Background**

- 1.1 On the 23rd September 2014 it was resolved by the North Planning Committee to grant full planning permission for the erection of 14 dwellings on land North of Norton Farm, Main Road, Norton in Hales, subject to conditions and to the signing and completion of a Section 106 Legal Agreement to secure the affordable housing financial contribution in line with Core Strategy Policy CS11 and the Councils' adopted SPD on the 'Type and Affordability of Housing'.
- 1.2 Since that time the applicant has progressed the S106 agreement to a point where it has now been signed and returned to the Council for sealing. There has also been further developments approved at appeal within Norton in Hales. Since September 2014 the SAMDev examination has been undertaken, main modifications have been published and consulted on and the Council is awaiting the Inspectors report. As such, in accordance with paragraph 216 of the NPPF, the Local planning Authority now considers that the weight which can be given to some policies within the SAMDev has altered.
- 1.3 The following is a review of the 'Principle and Policy of Development' previously presented to Committee for re-consideration in light of the publications of the SAMDev Plan main modifications.

2.0 Impact of SAMDev Progress

- 2.1 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 starting point for decision taking is therefore the development plan. Proposals that accord with an up-to-date plan should be approved, whilst proposals that conflict with the plan should be refused, unless other material considerations indicate otherwise (para 12 of the National Planning Policy Framework (NPPF) refers).
- 2.2 The NPPF in itself constitutes guidance for local planning authorities as a material consideration to be given significant weight in determining applications. At para 14 the NPPF sets out the presumption in favour of sustainable development as a golden thread running through plan-making and decision-taking. At paragraph 197 the NPPF reiterates that in assessing and determining development proposals, local planning authorities should apply the presumption in favour of sustainable development. These considerations have to be weighed alongside the provisions of the development plan. Development plan policies of particular relevance to assessing the acceptability of this housing application in

principle are discussed below:

2.3 The Development Plan

For the purposes of the assessment of this application the development plan presently comprises of the adopted Shropshire Core Strategy 2011 and a range of Supplementary Planning Documents. The Policies in the North Shropshire Local Plan (NSLP) remain saved policies until the adoption of the SAMDev, however the policies in the NSLP could be argued to be out of date and as the SAMDev progresses the weight that can be given to NSLP policies reduces. The proposed site falls outside of the village development boundary of the NSLP.

2.4 Shropshire Core Strategy Policies CS1, CS4 and CS5

Policies CS1 and CS4 of the Core Strategy set out the strategic approach to housing provision in rural settlements which are referred to as Community Hubs and Community Clusters. It is envisaged that they will provide sustainable settlements that will provide key facilities, services and infrastructure for new development and will be of an appropriate scale and design for each or within the development boundaries. Policies CS1 and CS4 are consistent with the objectives of the NPPF to focus new development in sustainable locations.

2.5 Unfortunately, Norton in Hales is not being promoted as a Community Hub or Community Cluster and therefore the proposal would conflict with the adopted Core Strategy policies CS1 and CS4 and falls to be assessed against adopted Core Strategy policy CS5. Policy CS5 states that new development will be strictly controlled in the countryside and only allows for exceptions, including those to meet an essential rural business need or local need, none of which apply to this proposal. The proposal therefore also conflicts with CS5. It is considered that policy CS5 is consistent with the objectives of the NPPF to protect the intrinsic character and beauty of the countryside.

2.6 The National Planning Policy Framework

The NPPF sets out the presumption in favour of sustainable development as a golden thread running plan-making and decision-taking and is a material consideration to which significant weight should be attributed. As part of the overall planning balance, it is therefore appropriate to assess this site within the context of the 'presumption in favour of sustainable development'.

2.7 At para 10 the NPPF states that policies in local plans should follow the approach of the presumption in favour of sustainable development, with clear policies that will guide how the presumption should be applied locally.

2.8 Ultimately the policies contained in the SAMDev Plan will therefore need to comply with the sustainable guidance set out in the Framework in order to proceed to adoption. Under the NPPF sustainable sites for housing where the adverse impacts do not outweigh the benefits of the development will still have a strong presumption in favour of permission when considered against the NPPF as a whole.

3.0 **Other Material Considerations**

3.1 As noted at 2.1 above proposals that accord with an up-to-date plan should be approved, whilst proposals that conflict with the plan should be refused, unless other material considerations indicate otherwise (para 12 of the National

Planning Policy Framework (NPPF) refers). The development of a site outside of the development boundary conflicts with the housing policies of the local plan. However, officers advise that there are other material considerations which should be taken into account in considering the application.

- 3.5 The September 2014 report indicated that the balance of material consideration remains one of boosting housing supply in locations that are considered to be sustainable even if they fall outside of the defined development boundaries within existing saved and adopted development plan policies. The proposed site was considered to be in accordance with the sustainable objectives that are set out in the NPPF by providing economic, social and environmental benefits. Accordingly, it was considered that the principle of a residential development in this location was acceptable.
- 3.6 Norton in Hales has been subject to three recent appeals this year for the following sites:-
- 14/00790/OUT – Erection of 14 dwellings on Land Adj. Bearstone Road. Appeal Allowed 5th June 2015.
 - 14/01121/OUT – Erection of 12 dwellings on Land East of Beswick Lane. Appeal Allowed. Appeal Allowed 5th June 2015.
 - 14/01426/OUT – Erection of 17 dwellings on Land South of Chapel Lane. Appeal Allowed 4th August 2015.
- 3.7 In each case the inspector acknowledged that the sites were located outside of the settlement boundary as indicated in the NSLP and therefore residential development would not normally be permitted. In the most recent appeal for 17 dwellings on Land South of Chapel Lane the inspector indicated that the Government was seeking to significantly boost the supply of housing, as set out in paragraph 47 of the NPPF. The Council indicated during the appeal that it could demonstrate a 5 years housing land supply, although the inspector indicated that this does not in itself rule out sustainable residential development.
- 3.8 On all of the appeal cases the inspectors have indicated that the sites were located within close proximity to a range of local services and facilities in the form of a primary school, public house, village hall, church, recreational facilities (including cricket pitch, tennis court, bowling green and sports pavilion) and children's play area. Future occupants of the developments would have safe access to these facilities on foot via the settlements footpaths which link to the Main Road. In addition, it was indicated that whilst there was no bus service and therefore there may be some reliance on a private motor vehicle for other services and employment, Market Drayton is within a reasonable distance of approximately 2.4 miles and subsequently any such car journeys would be relatively short.
- 3.9 The inspectors have agreed that the developments would increase the level of patronage to local services and facilities, which would help to enhance and maintain the vitality of Norton in Hales and would be a local benefit. On the most recent appeal decision the inspector was aware of the previous two appeals which were accepted together with the resolution to approve this current

application. It was indicated that the resulting increase in housing and subsequent residents would not be of such a level to result in any material harm to the settlement.

- 3.10 In conclusion the inspectors acknowledged that the appeal sites were located outside of the defined development boundary and therefore runs contrary to the local development plan policies. However, the harm that would result to the principles of these policies would be limited and the developments comply with Paragraph 55 of the NPPF.
- 3.11 The proposed development would deliver social and economic benefits through the delivery of new housing and would maintain and enhance the vitality of Norton in Hales and would not result in isolated dwellings in the countryside. The proposal fulfils the three roles of sustainable development as set in the NPPF. Accordingly, there are material considerations that indicate that the proposal should be allowed despite the development plan conflict associated with the appeal site's location outside of the defined development boundary and therefore not being plan-led.
- 3.12 In conclusion officers would highlight the advanced stage of the application and the following factors which reinforce the sustainable credentials in favour of the application at this point in time:
- The S106 has been signed. The planning permission can therefore be released without undue delay with affordable housing contribution secured.
 - The proposed development is a full application and is deliverable.
 - The site is totally enclosed by existing residential development and forms a natural infill plot within the village and will not result in the loss of open countryside.
 - The proposed footpath link will provide a safe means of access to serve the future occupants and will provide improved access for the settlement.
 - The previous appeals have cumulatively assessed the impact and concluded that with this current application there would be no social, economic or environmental impact on the settlement.
 - Bearing in mind the all the above and until the SAMDev Plan is adopted, officers are of the opinion that the balance of planning considerations still tips in favour of permission.

4.0 **Conclusion**

- 4.1 The site is not located within a Community Hub or Community Cluster and is therefore classed as open countryside and a departure from the development plan, contrary to Core Strategy policies CS1, CS4 and CS5.
- 4.2 The NPPF promotes sustainable development and would deliver social and

economic benefits by providing additional market and affordable homes in accordance with the objectives of national planning policy relating to new housing in rural areas. The site is wholly located within the settlement and adjacent to existing residential development and will not result in any environmental impact. The NPPF advises that new housing in rural areas should be located where it will enhance or maintain the vitality of rural communities, and additional support for local services in Norton in Hales would achieve this aim.

- 4.3 It is also considered that the proposed layout and design will be sympathetic to the adjoining residential development and there will be no adverse impact on local or residential amenity. The development can be provided with an appropriate vehicular access and improvements to the public footpaths to allow existing residents safe access to local services and facilities. Furthermore, it will not extend the village into open country side and will maintain the existing boundary landscaping with the provision of additional planting to enhance the approach into the village.
- 4.4 The advanced stage of the application whereby the S106 is ready to be sealed and a draft permission agreed is noted and it is accepted that the development would constitute sustainable development and result in the redevelopment of an enclosed paddock encircled by residential development and forms an integral part of the settlement and therefore complies with national planning policy priorities relating housing provision and sustainable development.
- 4.5 Accordingly the recommendation remains one of approval, subject to the S106 and subject to the conditions set out in appendix 1.

5.0 RISK ASSESSMENT AND OPPORTUNITIES APPRAISAL

5.1 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 6 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.

5.2 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.

5.3 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.

6.0 FINANCIAL IMPLICATIONS

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

7.0 BACKGROUND

7.1 Relevant Planning Policies

Policies material to the determination of the Application. In determining this application the Local Planning Authority gave consideration to the following policies:-

National Planning Policy Framework:

6 : Delivering a Wide Choice of High Quality Homes

7 : Requiring Good Design

8 : Promoting Healthy Communities

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

11 : Conserving and Enhancing the Natural Environment

12 : Conserving and Enhancing the Historic Environment

Shropshire Council Core Strategy (February 2011):

CS1 : Strategic Approach

CS4 : Community Hubs and Community Clusters

CS5 : Countryside and Green Belt

CS6 : Sustainable Design and Development Principles
CS11 : Type and Affordability of Housing
CS17 : Environmental Networks
CS18 : Sustainable Water Management
Supplementary Planning Document - Type and Affordability of Housing

North Shropshire Local Plan (December 2005):

H6 : Other Limited New Housing and Conversions in Local Services Villages and Other Village with Development Boundaries
D6 : Control and Design of Extensions

7.2 Relevant Planning History

There is no relevant planning history.

8.0 ADDITIONAL INFORMATION

List of Background Papers - Planning Application reference 14/00260/FUL

Cabinet Member (Portfolio Holder) - Cllr M. Price

Local Member - Cllr John Cadwallader

Appendices

APPENDIX 1 - Conditions

APPENDIX 1

Conditions

STANDARD CONDITIONS

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

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

2. The development shall be carried out strictly in accordance with the 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.

CONDITIONS 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 development approved by this permission shall commence until there has been submitted to and approved by the local planning authority a scheme of landscaping and these works shall be carried out as approved. The submitted scheme shall include

- Means of enclosure
- Hard surfacing materials
- Planting plans
- Written specifications (including cultivation and other operations associated with plant and grass establishment)
- Schedules of plants, noting species, planting sizes and proposed numbers/densities where appropriate
- Implementation timetables

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

CONDITIONS THAT REQUIRE APPROVAL DURING THE CONSTRUCTION/PRIOR TO THE OCCUPATION OF THE DEVELOPMENT

5. Prior to the occupation of plots 3 & 4 shown on the approved drawings, visibility splays of 2.4 metres x 43 metres shall be provided at the southern junction, all growths and obstructions in advance of the visibility splay area shall be lowered to and thereafter

maintained at a height not exceeding 0.6 metres above the level of the adjoining highway footway. Reason: In the interests of highway safety.

Reason: In the interests of highway safety.

6. Prior to plots 3 & 4 shown on the approved drawings being first occupied the access driveway, parking and turning areas together with a footway link to the existing footway adjacent to 6 Main Road shall be constructed in accordance with a specification and footway alignment to be first submitted to and approved in writing by the Local Planning Authority.

Reason: To provide a satisfactory means of access to the site.

7. Prior to the occupation of plots 1 & 2 and 5 to 14 inclusive, as shown on the approved details, at the junction of Pear Tree Croft with Main Road visibility splays of 2.4 metres x 43 metres shall be provided in both directions along Main Road, all growths and obstructions shall thereafter be lowered to and thereafter maintained at a height not exceeding 0.6 metres above the level of the adjoining highway footway. Reason: In the interest of highway safety.

Reason: In the interest of highway safety.

8. Prior to the occupation of plots 1 & 2 and 5 to 14 inclusive, as shown on the approved details, the internal access road, parking and turning areas and footway link to Forge Lane shall be constructed and drained in accordance with a specification to be first submitted to and approved in writing by the Local Planning Authority

Reason: In the interests of highway safety.



Committee and Date
 North Planning Committee
 2nd September 2015

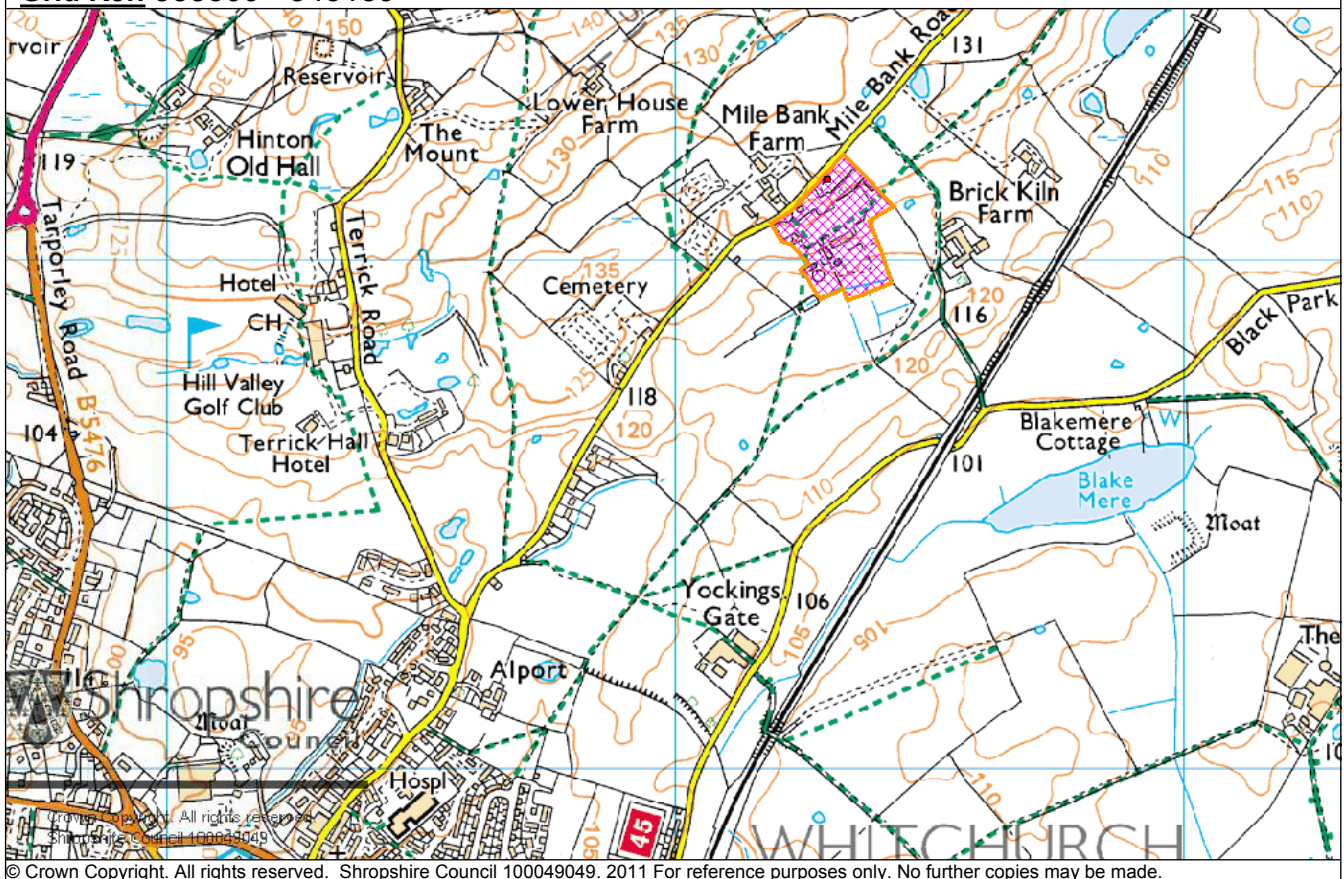
Item
9
 Public

Development Management Report

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

Summary of Application

Application Number: 13/03481/OUT	Parish:	Whitchurch Urban
Proposal: Outline application (all matters reserved) for residential development; vehicular access and estate roads; diversion of Public Right of Way; associated highway and landscape works		
Site Address: Storage Land And Premises (former Dairy) Mile Bank Road Whitchurch Shropshire		
Applicant: Ainscough Strategic Land		
Case Officer: Karen Townend	email: planningdmne@shropshire.gov.uk	
Grid Ref: 355300 - 343159		



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Recommendation:- Grant Permission subject to the S106 legal agreement and subject to the conditions set out in Appendix 1.

REPORT

ADDENDUM TO PREVIOUS OFFICER REPORTS – Re: The SAMDev Plan Main Modifications

1.0 Background

- 1.1 On the 14th January 2014 it was resolved by Northern Planning Committee to grant outline planning permission for residential development (all matters reserved) of the former Dairy, storage land and premises at Mile Bank Road, Whitchurch, subject to conditions and to the signing and completion of a Section 106 Legal Agreement to secure the affordable housing financial contribution in line with Core Strategy policy CS11 and the Councils' adopted SPD on the 'Type and Affordability of Housing'.
- 1.2 A further report was taken on the 23rd September 2014 following the Council issuing a revised 5 year land supply report. The September report was for members to consider whether there had been a change in the balance of considerations following the update to the 5 year land supply. With regard to this site the report advised that the site lay outside the development boundary shown in the North Shropshire Local Plan and was not being proposed as an allocated site in the SAMDev as there were other sites adjacent to the town which could meet the housing need for the area. However, the report also noted that the site is brownfield and that the proposal was sympathetic to the site, local and residential amenities, could be provided with appropriate access, drainage and landscaping without adverse impact on habitats or biodiversity. The proposal also provides for affordable housing, open space and enhancements of connectivity to Whitchurch through the provision of a bus stop and improvements to the footpath to the town. Accordingly in September 2014 members agreed that there were material considerations which weighed in favour of the development being supported although it would be contrary to the development boundary in the SAMDev.
- 1.3 Since that time the applicant has progressed the S106 agreement to a point where it has now been signed and returned to the Council for sealing. There has also been further developments with the Site Allocations and Management of Development (SAMDev) Plan. Since September 2014 the SAMDev examination has been undertaken, main modifications have been published and consulted on and the Council is awaiting the Inspectors report. As such, in accordance with paragraph 216 of the NPPF, the Local planning Authority now considers that the weight which can be given to some policies within the SAMDev has altered.
- 1.4 The following is a review of the 'Principle and Policy of Development' previously presented to Committee for re-consideration in light of the publications of the SAMDev Plan main modifications.

2.0 Impact of SAMDev progress

- 2.1 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 starting point for decision taking is therefore the development plan. Proposals that accord with an up-to-date plan should be approved, whilst proposals that conflict with the plan should be refused, unless other material considerations indicate otherwise (para 12 of the National Planning Policy Framework (NPPF) refers).
- 2.2 The NPPF in itself constitutes guidance for local planning authorities as a material consideration to be given significant weight in determining applications. At para 14 the NPPF sets out the presumption in favour of sustainable development as a golden thread running through plan-making and decision-taking. At para. 197 the NPPF reiterates that in assessing and determining development proposals, local planning authorities should apply the presumption in favour of sustainable development. These considerations have to be weighed alongside the provisions of the development plan. Development plan policies of particular relevance to assessing the acceptability of this housing application in principle are discussed below:
- 2.3 The Development Plan
For the purposes of the assessment of this application the development plan presently comprises of the adopted Shropshire Core Strategy 2011 and a range of Supplementary Planning Documents. The Policies in the North Shropshire Local Plan remain saved policies until the adoption of the SAMDev, however the policies in the NSLP could be argued to be out of date and as the SAMDev progresses the weight that can be given to NSLP policies reduces.
- 2.4 Shropshire Core Strategy policies CS1, CS3 and CS5 - Policies CS1 and CS3 of the Core Strategy set out the strategic approach to housing provision in the market towns, such as Whitchurch. It is envisaged that the market towns will provide for substantial levels of new development, of an appropriate scale and design for each town and on allocated sites or within the development boundaries. Policies CS1 and CS3 are consistent with the objectives of the NPPF to focus new development in sustainable locations.
- 2.5 The site lies outside the development boundary for Whitchurch. Therefore, the proposal conflicts with adopted Core Strategy policies CS1 and CS3 and falls to be assessed against adopted Core Strategy policy CS5. Policy CS5 states that new development will be strictly controlled in the countryside and only allows for exceptions in housing needs, including those to meet an essential rural business need or local need, none of which apply to this proposal. The proposal therefore also conflicts with CS5. It is considered that policy CS5 is consistent with the objectives of the NPPF to protect the intrinsic character and beauty of the countryside.
- 2.6 SAMDev Policy – The SAMDev is now considered to be at an advanced stage. The SAMDev Plan Inspector has recently confirmed the proposed main modifications to the plan following the examination sessions held in November & December 2014. The main modifications were published on 1st June 2015 for a 6

week consultation period. This means that any plan content not included in the schedule of proposed main modifications may be considered to be sound in principle in accordance with NPPF paragraph 216. Therefore significant weight can now be given to SAMDev policies in planning decisions where these are not subject to modifications.

- 2.7 Whitchurch was identified in the Core Strategy as a market town. The SAMDev Plan provides a detailed map of showing the development boundary and detailed policy setting out the development guidelines for the town and identifying the allocated sites. Policy S18 advises that Whitchurch should delivery around 1,200 dwellings on allocated sites, infill and windfall development within the boundary. No modifications are proposed in the Main Modifications relating to policy S18. As such the development of the site would also be contrary to the housing development policy in the SAMDev.
- 2.8 The NPPF - As previously mentioned the NPPF sets out the presumption in favour of sustainable development as a golden thread running plan-making and decision-taking and is a material consideration to which significant weight should be attributed. As part of the overall planning balance, it is therefore appropriate to assess this site within the context of the 'presumption in favour of sustainable development'.
- 2.9 At para 10 the NPPF states that policies in local plans should follow the approach of the presumption in favour of sustainable development, with clear policies that will guide how the presumption should be applied locally.
- 2.10 Ultimately the policies contained in the SAMDev Plan will therefore need to comply with the sustainable guidance set out in the Framework in order to proceed to adoption. Under the NPPF sustainable sites for housing where the adverse impacts do not outweigh the benefits of the development will still have a strong presumption in favour of permission when considered against the NPPF as a whole.
- 3.0 **Other material considerations**
- 3.1 As noted at 2.1 above proposals that accord with an up-to-date plan should be approved, whilst proposals that conflict with the plan should be refused, unless other material considerations indicate otherwise (para 12 of the National Planning Policy Framework (NPPF) refers). The development of a site outside of the development boundary conflicts with the housing policies of the local plan. However, officers advise that there are other material considerations which should be taken into account in considering the application.
- 3.2 The January report noted that the site is brownfield and that sufficient evidence was provided to prove that the site is unlikely to see any other viable commercial use and that its current condition was visually harmful to the character of the area. Both the NPPF and local policy supports redevelopment of brownfield sites, providing the development is also sustainable. The January report also considered this matter in detail and concluded that the development of the site would provide social, economic and environmental benefits which would outweigh any environmental harm of developing a site outside the development boundary.

- 3.2 Furthermore, officers consider that the indicative layout and principles set out in the design and access statement would result in a development which would remove the current visual harm and be of benefit to the character of the area. There would not be any harm to existing residential amenity or, as noted above, any harm to ecology, biodiversity or flood risk that could not be mitigated through conditions and the development can be provided with a safe means of vehicular access. The loss of the employment use from the site can be balanced against the traffic movements from the proposed development and it remains officer's opinion, as noted in the January report, that residential development of the site would be far preferable to the site being brought back into commercial/ industrial use.
- 3.18 In conclusion officers would highlight the advanced stage of the application and the following factors which reinforce the sustainable credentials in favour of the application at this point in time:
- The S106 has been signed. The planning permission can therefore be released without undue delay with affordable housing contribution secured.
 - The proposal is for redevelopment of a brownfield site which is visually harmful and unlikely to have a commercial or industrial use
 - The redevelopment will provide an appropriate development which will not have significant detrimental impacts and issues of flood risk and ecology can be overcome by condition
 - Satisfactory access is available and the residential redevelopment of the site is preferred, in traffic terms, to the reuse of the site for industrial or commercial use
 - Bearing in mind the all the above and until the SAMDev Plan is adopted, officers are of the opinion that the balance of planning considerations still tips in favour of permission.

4.0 Conclusion

- 4.1 The site is located outside the current Whitchurch development boundary and is therefore classed as open countryside and a departure from the development plan, contrary to Core Strategy policies CS1, CS3 and CS5. Furthermore, the site has not been identified as a site for future residential development within the emerging SAMDev Plan, and will therefore be contrary to policy S18 when SAMDev is adopted. However, whilst SAMDev is at a stage where significant weight can be given to policy S18, the requirements of this emerging policy and those of adopted policies CS1, CS3 and CS5 must be balanced against the NPPF and other material considerations.
- 4.2 The NPPF promotes sustainable development and also promotes the redevelopment of sustainable brownfield sites. The proposed development will result in the redevelopment of a brownfield site which the Council consider is currently visually harmful and would be unlikely to find a commercial or industrial use and furthermore the Council consider that residential development would be preferred, in traffic terms. The site also benefits from its close proximity to the market town of Whitchurch and the economic and social benefits of housing near to the market town including the provision of affordable housing.
- 4.4 It is also considered that the indicative plans show that the layout will be

sympathetic to the levels of the existing site and that there will be no adverse impact on local or residential amenity. The development can be provided with an appropriate vehicular access and improvements to the public footpaths crossing the site. Furthermore, it can be provided without risk of flooding and drainage matters can be controlled by condition. The development includes suitable measures to safeguard existing trees, hedgerows and local landscape character and will not be harmful to local habitats or biodiversity.

4.5 The advanced stage of the application whereby the S106 is ready to be signed and a draft permission agreed is noted and it is accepted that the development would constitute sustainable development and result in the redevelopment of a brownfield site and therefore comply with national planning policy priorities relating housing provision and sustainable development.

4.6 Accordingly the recommendation remains one of approval, subject to the S106 and subject to the conditions set out in appendix 1.

8.0 RISK ASSESSMENT AND OPPORTUNITIES APPRAISAL

8.1 Risk Management

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

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

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

8.2 Human Rights

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

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

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

recommendation.

8.3 **Equalities**

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

9.0 **FINANCIAL IMPLICATIONS**

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

10.0 **BACKGROUND**

Relevant Planning Policies

National Planning Policy Framework

CS01 – Strategic Approach

CS03 – The Market Towns and Other Key Centres

CS5 - Countryside and Greenbelt

CS6 - Sustainable Design and Development Principles

CS11 - Type and Affordability of housing

CS17 – Environmental Networks

CS18 – Sustainable Water Management

SPD Type and Affordability of Housing

11.0 **ADDITIONAL INFORMATION**

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

APPENDIX 1

Conditions

STANDARD CONDITION(S)

1. Details of the layout, scale, appearance, landscaping and access (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. This permission does not purport to grant consent for the layout shown on the deposited plan submitted with this application.

Reason: To enable the Local Planning Authority to consider the siting of the development when the reserved matters are submitted.

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

The number of units

The means of enclosure of the site

The levels of the site

The means of access for disabled people

The foul and surface water drainage of the site

The finished floor levels

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

6. Work shall be carried out strictly in accordance with the Ecological Assessment incorporating Phase 2 survey results August 2013 by Tyler Grange.

Reason: To ensure the protection of European Protected Species as well as species protected under the Wildlife and Countryside Act 1981 (as amended)

7. An Ecological management plan shall be submitted to and approved by the local planning authority as part of the Reserved Matters. The plan shall include:

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

Reason: To protect features of recognised nature conservation importance, including great crested newts, a European Protected Species

CONDITION(S) THAT REQUIRE APPROVAL BEFORE THE DEVELOPMENT COMMENCES

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

Reason: To ensure the protection of bats and great crested newts, European Protected Species.

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

- a. An appropriately scaled plan showing 'Wildlife/habitat Protection Zones' where construction activities are restricted and where protective measures will be installed or implemented;
- b. Details of protective measures (both physical measures and sensitive working practices) to avoid impacts during construction;
- c. A timetable to show phasing of construction activities to avoid periods of the year when sensitive wildlife could be harmed (such as the bird nesting season);
- d. Method statement for the great crested newt translocation
- e. Persons responsible for:
 - i) Compliance with legal consents relating to nature conservation;
 - ii) Compliance with planning conditions relating to nature conservation;
 - iii) Installation of physical protection measures during construction;
 - iv) Implementation of sensitive working practices during construction;
 - v) Regular inspection and maintenance of physical protection measures and monitoring of working practices during construction;
 - vi) Provision of training and information about the importance of 'Wildlife protection zones' to all construction personnel on site.

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

Reason: To protect features of recognised nature conservation importance including great crested newts, a European Protected Species.

10. Prior to the commencement of work on site a minimum 10m buffer shall be fenced off parallel to the banks along the length of the water course, put in place within the site to protect the watercourse during construction works. No access, material storage or ground disturbance should occur within the buffer zone. Details of the fencing shall be submitted with reserved matters.

Reason: To ensure the protection of Water Voles, a protected species under the Wildlife & Countryside Act 1981 (as amended)

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.



Committee and Date
 North Planning Committee
 2nd September 2015

Item
10
 Public

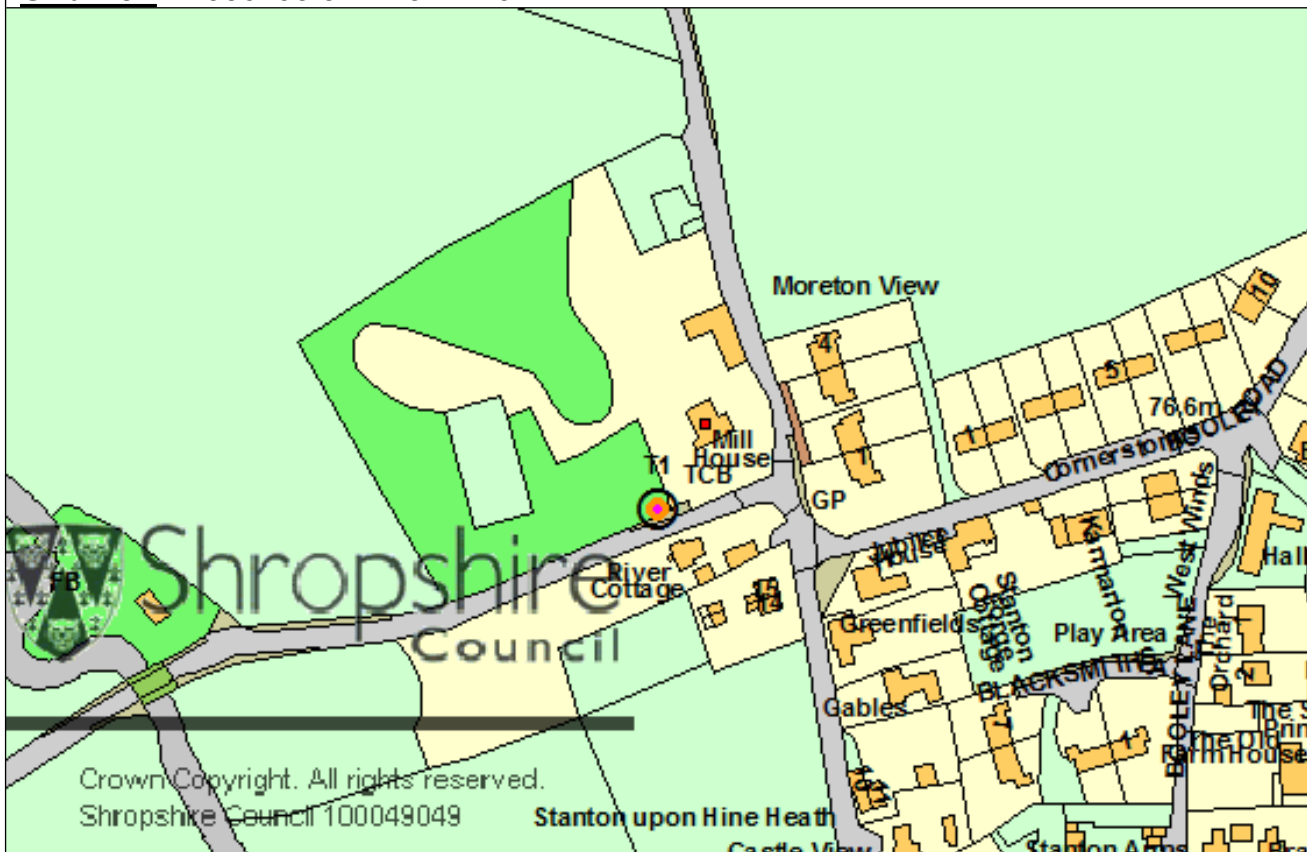
Tree Preservation Order Report

Responsible Officer: Martin Sutton
 email: natural.environment@shropshire.gov.uk Tel: 01743 252422

Summary of Application

<u>Tree Preservation Order:</u> SC/00228/15	<u>Parish:</u>	Stanton Upon Hine Heath
<u>Proposal:</u> To confirm the Provisional Tree Preservation Order relating to Mill House, Stanton Upon Hine Heath TPO 2015		
<u>Site Address:</u> Mill House, Stanton Upon Hine Heath		
<u>Owner:</u> Mr & Mrs Cauchi		
<u>Case Officer:</u> Andrea King	<u>email:</u> natural.environment@shropshire.gov.uk	

Grid Ref: E: 356793.34 N: 324146.14



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Recommendation:- Confirm Tree Preservation Order

The Copper Beech tree in question is of significant amenity value, currently structurally sound and under imminent threat, therefore it was appropriate to be made subject of a provisional TPO. As no overriding arboricultural reason has been given for the removal of the tree, the TPO should be confirmed.

REPORT

1.0 THE PROPOSAL

1.1 To make the decision whether or not to confirm, and therefore make permanent, the provisional Shropshire Council (Mill House Stanton upon Hine Heath) Tree Preservation Order 2015 (Ref SC/00228/15). The TPO relates to one tree – a mature Copper Beech standing in the grounds of Mill House.

2.0 SITE LOCATION/DESCRIPTION

2.1 The tree is located in the front / side garden of Mill House Stanton upon Hine Heath adjacent to the road leading to Moreton Corbett. The tree stands in a hedgerow on a raised bank beside an old driveway entrance fronting the lane opposite River cottage, some 0.5m from the road and 1m above it, and 0.7-1m above the said driveway, depending on the exact place of measurement. The tree stands to the South West of Mill house and due North of River cottage, though it is closer to River cottage.

3.0 REASON FOR COMMITTEE DETERMINATION OF APPLICATION

3.1 The Officer recommendation is contrary to The Parish Council's the owners and a neighbour's objections to the Tree Preservation Order.

4.0 Community Representations

4.1 Amenity

- 1) The amenity of the tree is limited– it is only visible for a short period as you drive into the village and only visible from a few adjacent properties
- 2) The tree is growing out of context and causing a nuisance and outgrowing its position.
- 3) Beech don't respond to major crown reductions - significant pruning would result in the death of the tree
- 4) The crown of the tree is encroaching on an adjacent Dawn Redwood which is a rarer and more important specimen and the beech would need to be reduced by 5m to allow free growth of the Redwood – an excessive amount of pruning.
- 5) The tree has no educational value or benefit to local children

Safety

- 1) A tree surgeon's report prepared on behalf of the owners, states that the tree is fully mature and beginning to decline, citing tight joints which are potential weak junctions.
- 2) Future failure of the limbs must be considered possible, resulting in danger to the

highway and properties

- 3) If the tree grows to full potential it will double its current size
- 4) There are apparent contradictions in the Council's safety report which questions the degree of risk posed by the tight forks
- 5) Future growth will damage the road and increase the risk to road users
- 6) The road will need to be resurfaced in near future due to the effects of the roots

4.3 Shading (Neighbour objection)

- 1) The tree canopy is close to the roof of River Cottage, causing risk of guttering blockages and lack of light requiring lights to be on at all times in the kitchen / diner.

4.4 Other

- 1) The tree could be two trees together and thus the RPA should be 7m not 13.7m
- 2) The tree has limited longevity
- 3) Another smaller Beech tree in the owner's garden could be moved into a sensible position.
- 4) The neighbours are aggrieved that their concerns have not been considered with a report or specific site visit and are concerned that the TPO will make future management of the tree impossible.

4.5 **Objection from the Parish Council**

"It is causing a detrimental effect on a rare tree (the Dawn Redwood), which we believe to be extremely rare in its native China and whilst there are specimens at Kew, it is certainly rare elsewhere in this country. (We do appreciate it is of course non-native & the Copper Beech is native.) We also felt that the tree's current size, proximity to the road & particularly proximity to River Cottage as well as Mill House would necessitate ongoing management & in all likelihood removal in the relatively near future. As it is not a rare tree or an unusual tree in the area the PC feel that this is reasonable & indeed inevitable."

5.0 **THE MAIN ISSUES**

- Whether the tree merits a TPO and it is expedient in the interests of amenity to make one.
- Whether the reasons cited within the objections are sufficient to preclude confirming the provisional TPO.

6.0 **OFFICER APPRAISAL** (response to objections)

6.1 **Amenity**

6.1.1 The tree is clearly visible on a through road to the village from Morteon Corbett – a copy of the Council's TEMPO amenity assessment is attached (a scoring system to assess the suitability of a tree for protection under a TPO). By our assessment the tree scores 17 and as such "definitely merits a TPO".

6.1.2 The tree owner has submitted their own TEMPO assessment (also attached) which scores the tree as 7 i.e. "Does not merit a TPO". The difference in scores is chiefly related to the assessment of life span – rated by the Tree Officer as "20 – 40 years" and the owner as "less than 10". The latter category also includes "trees which are an existing or near future nuisance, clearly outgrowing their context or affecting better trees."

The rarity of the Dawn Redwood concerns the number of original trees in its natural

6.1.3 range in China. It is not unusual to find it planted in parks and gardens in the UK and therefore this does not make the tree more important than the Beech.

6.1.4 The Redwood has been partially growth suppressed on one side by the Beech which would become more apparent and unsightly should the Beech be removed and the nascent (dormant) foliage not regenerate. The rapidly increasing height of the Redwood will eventually outgrow the lower canopy spread of the Beech (see photo below) and the trees could continue to grow congruently together.

6.1.5 Whilst the Beech tree is still actively growing, it is of mature age so future growth is likely to be relatively modest. It does not have the apically dominant form to make the 35m as feared by the owner. The adjacent Redwood, which is closer to the property, is only semi mature and could surpass this projected height and become much more imposing than the Beech. As Redwoods can achieve 40m in height the likelihood will be that this tree will be removed in the future, if height is an issue for the owners.

Safety

6.2 Shropshire Council had the tree inspected by one of its Arboricultural Officers Mr Blessington. He is a professional tree inspector whose primary role is to undertake tree safety survey's of Shropshire's highways and Council owned trees. He concluded that the tree has no heightened risk of failure, with no history of fracture or major limb loss. The crown structure, spreading with tight forks is quite common with the species and gives no cause for imminent concern. With regards to the longevity of the tree it is clear the tree is in good health and no evidence has been observed or submitted to demonstrate any decline and as such we anticipate a considerable life expectancy of 20 – 40 years as a conservative estimate. The tree if it lived to its average natural lifespan, could well survive for another 80 -100 years. (full report attached).

6.2.2 The form of the tree could possibly be two early fused, stems however they have grown as one tree and therefore the calculated root protection area (RPA) is an appropriate measurement in accordance with BS 5837 2012.

6.2.3 The tree has always grown adjacent to the road and its roots will have adapted for this and there is no evidence of damage to the highway or current issues of road resurfacing. In any event street trees are accommodated in such works to avoid damage to the trees or the surfacing.

Shading

6.3 With regard to the neighbouring property the Beech tree is both north of, and on the gable side of the property, affecting 2 small downstairs windows (see photo 3) so the tree will not unduly shade the house or garden. No evidence of any damage to the property has been submitted and therefore the tree cannot be considered a nuisance in the legal sense. An application to prune back any encroaching branches can be readily made if required – the TPO does not prevent acceptable work.

Other considerations

6.4 Whilst not rare or unusual its size and age is significant as demonstrated in the aerial shot attached (photo 1) which shows the crown spread of the tree. It is considered a significant gateway tree to the village of significant amenity value.

7.0 CONCLUSION

The tree is clearly visible on a through road to the village from Morteon Corbett. The owners claim that the tree has limited amenity value and is out of context is refuted by the Council. The Council's – TEMPO (Tree Evaluation Method for Preservation Orders) amenity assessment shows the tree clearly merits protection.

The tree is of high amenity, structurally sound and under imminent threat of removal. No valid arboricultural reason has been given for the removal of the tree, therefore it was appropriate to be made subject to a provisional TPO which should now be confirmed.

8.0 Risk Assessment and Opportunities Appraisal

8.1 Risk Management

The principal risk associated with this recommendation is as follows: the decision to confirm the TPO may be challenged by an 'aggrieved person' by application to the High Court, if they believe that i) the Order is not within the powers of the Town & Country Planning Act 1990, or that ii) the requirements of the 1990 Act or the Town & Country Planning (Tree Preservation) (England) Regulations 2012 have not been met. The 'aggrieved person' must apply to the High Court within six weeks from the date of confirmation of the TPO. To be 'aggrieved' applicants should be able to show that they have a sufficiently direct interest in the matter. Failure by the authority to comply with the requirements of the Act or Regulations may not be sufficient for the Court to quash the TPO; the Court should also be satisfied that the interests of the applicant have been 'substantially prejudiced' as a result.

8.2 Human Rights

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

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

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

8.3 Equalities

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

9.0 Financial Implications

There are likely financial implications of the decision and/or imposition of conditions is challenged by a planning appeal or judicial review. The costs of defending any decision will be met by the authority and will vary dependant on the scale and nature of the proposal. The financial implications of any decision are not a material planning consideration and should not be "weighed" in planning committee members' mind when reaching a decision.

10. BACKGROUND

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

Tree Evaluation Method for Preservation Order (TEMPO) - Councils
Tree Evaluation Method for Preservation Order (TEMPO) - Owners
Tree survey – Ken Benbow Tree Surgeon
Tree Safety Survey (John Blessington, Arboricultural Officer, Shropshire Council)
Letters of objection

Cabinet Member (Portfolio Holder)
Cllr Mal Price

Local Member
Cllr Karen Calder

Appendices – Photos 1-3
APPENDIX 1 - Photos



Crown of Beech in top left corner.



Copper Beech to left Dawn Redwood to the right



Gable of River Cottage and proximity of tree

Ms A King
Tree Service
Natural Environment Team
The Shirehall
Abbey Foregate
Shrewsbury
Shropshire
SY2 6ND

26 July 2015

Dear Ms King

Tree Preservation Order: SC/00228/15

Thank you for the Tree Evaluation Method for Preservation Orders, TEMPO, survey data sheet and decision guide. I have now read the guidance notes for users produced by Forbes-Laird Arboricultural Consultancy and I thought it would be a worthwhile exercise to personally complete a TEMPO assessment of the tree in question.

In completing the assessment, I decided to use the condition of the tree as stated by the council's arboriculturist. However, the scores recorded against each of the other sections are my own. I believe that a person living alongside the tree has a better understanding of its worth and amenity value than a person who visits the site for an hour.

I have enclosed my completed TEMPO form and will explain my findings.

Part 1

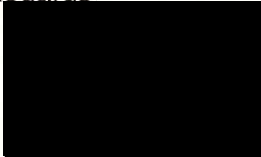
- a. 5 – As originally assessed.
- b. 0 - The reason for this low score is that the tree is a 'near future nuisance'; it is out growing its context as it is almost touching a neighbour's house and it is too close to the road. It is significantly affecting the potential, growth and shape, of a better quality and rare tree, a Dawn Redwood. Due to its shape, previous pruning and species, the copper beech can only tolerate limited reduction so the occupants of River Cottage live in a twilight world in the summer due to the shading from the canopy.
- c. 3 - It is a roadside tree but on a narrow road as you approach a 90° bend. Drivers are looking ahead to the bend rather than at the tree when heading east. When heading west they are looking to the next corner, assessing whether there is enough space to pass an oncoming vehicle. Cyclists would be heads down climbing the hill heading east and looking to negotiate the corner and the potholes when heading west down the hill. Very few people walk down the lane.
- d. -1 (minus one) - Due to the tree's previous pruning it has poor shape, nothing like a standard copper beech. It is wide in the east/west axis but narrow in the north/south axis. As previously stated it is generally unsuitable for its location due to size.

Part 2 is not relevant due to the low scores above.

A subjective assessment of the tree obviously results in a very different conclusion. You may think I am simply biased, however I have followed the TEMPO instructions and have applied my own knowledge of the area where the tree is growing.

I do hope this will help Mr Sutton in his decision making and possibly encourage him to visit the site.

Regards



Michael Cauchi

P.S. I have not received confirmation of receipt for my second letter.

TREE EVALUATION METHOD FOR PRESERVATION ORDERS - TEMPO

SURVEY DATA SHEET & DECISION GUIDE

Date: 28/05/15 Surveyor: ANDREA KING

Tree details SC/00228/15
 TPO Ref (if applicable): Tree/Group No: T1 Species: COPPER BEECH
 Owner (if known): MILL HOUSE Location: STANTON UPON HINE HEATH

REFER TO GUIDANCE NOTE FOR ALL DEFINITIONS

Part 1: Amenlty assessment

a) Condition & suitability for TPO

- 5) Good Highly suitable
- 3) Fair/satisfactory Suitable
- 1) Poor Unlikely to be suitable
- 0) Dead/dying/dangerous* Unsuitable

Score & Notes
5

* Relates to existing context and is intended to apply to severe Irremediable defects only

b) Retention span (in years) & suitability for TPO

- 5) 100+ Highly suitable
- 4) 40-100 Very suitable
- 2) 20-40 Suitable
- 1) 10-20 Just suitable
- 0) <10* Unsuitable

Score & Notes
0

*Includes trees which are an existing or near future nuisance, including those clearly outgrowing their context, or which are significantly negating the potential of other trees of better quality

c) Relative public visibility & suitability for TPO

Consider realistic potential for future visibility with changed land use

- 5) Very large trees with some visibility, or prominent large trees Highly suitable
- 4) Large trees, or medium trees clearly visible to the public Suitable
- 3) Medium trees, or large trees with limited view only Suitable
- 2) Young, small, or medium/large trees visible only with difficulty Barely suitable
- 1) Trees not visible to the public, regardless of size Probably unsuitable

Score & Notes
3

d) Other factors

Trees must have accrued 7 or more points (with no zero score) to qualify

- 5) Principal components of formal arboricultural features, or veteran trees
- 4) Tree groups, or principal members of groups important for their cohesion
- 3) Trees with identifiable historic, commemorative or habitat importance
- 2) Trees of particularly good form, especially if rare or unusual
- 1) Trees with none of the above additional redeeming features (inc. those of indifferent form)
- 1) Trees with poor form or which are generally unsuitable for their location

Score & Notes
-1

Part 2: Expediency assessment

Trees must have accrued 10 or more points to qualify

- 5) Immediate threat to tree inc. s.211 Notice
- 3) Foreseeable threat to tree
- 2) Perceived threat to tree
- 1) Precautionary only

Score & Notes
/

Part 3: Decision guide

- Any 0 Do not apply TPO
- 1-6 TPO Indefensible
- 7-11 Does not merit TPO
- 12-15 TPO defensible
- 16+ Definitely merits TPO

Add Scores for Total:
/

Decision:
/

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Ms A King
Tree Service
Natural Environment Team
The Shirehall
Abbey Foregate
Shrewsbury
Shropshire
SY2 6ND

01 July 2015

Dear Ms King

Tree Preservation Order: SC/00228/15

I am writing with my initial response to the tree inspection report from Mr John Blessington on the beech tree subject to the above TPO. My first observation is that the TEMPO guide for suitability of TPOs is referred to in the report but this document was not included for my scrutiny. I have since located the document online.

In the guidance notes for users written by Forbes-Laird Arboriculturists, it states that it would be helpful to the relevant parties if a copy of the TEMPO assessment were provided with the TPO. I would appreciate a copy of this document, so that I can view the scores and notes. An extension to the consulting period would also be appreciated; to allow me to pass the TEMPO assessment to an independent arboriculturist.

The first objection in my initial letter still stands in that the amenity value of the tree is poor. Mr Blessington states that the tree has amenity value as it is highly visible and can be appreciated by many people. When you delivered the TPO to my neighbour, I had to explain which tree the order applied to. He responded by saying that he had never noticed it. He has lived in the village for nine years.

I asked a number of my colleagues who pass my house daily driving to and from work what they noticed when passing the property. Each of them mentioned the yew tree arch but not one had noticed the large purple tree.

As I stated before, the tree is only visible from a few adjacent properties as it is on the edge of the village and on a downwards slope. It is of no educational value nor does it provide any benefit to local children as it is on my land and is adjacent to the road. So I firmly believe it has limited amenity value for all the reasons highlighted in my first letter.

The tree report states that the beech is probably two trees together and after closer inspection of the trunk, from the road, it does appear to be two trees. If this is the case then the tree protection area should be seven metres not 13.7 metres.

Moving to the age of the tree, the assessment here is very vague. The age is estimated at 150 years and the life expectancy could be as low as 150 years; according to the TEMPO guide. With a road covering half of the root structure, drains down two sides and a house within six metres of the tree, it is not in the ideal position for longevity. Also with a possible maximum height of 35 metres, twice its current height, it will at some point engulf River Cottage and encroach on my house.

As the tree is adjacent to the road, future growth is likely to cause damage to the road and also present an increased risk to road users should any branches fall. The road will need to be re-surfaced in the very near future, which will inevitably have a detrimental effect on the tree's root structure. The TEMPO guide mentions trees 'outgrowing their context and causing a near future nuisance'; has this been taken fully into account? The Helliwell system puts emphasis on visual amenity but it is short on social effects, which should be considered with equal weighting. The beech is said not to be suitable for major reductions of the canopy, so my neighbours in River Cottage will quite possibly have to continue to live in their current twilight world. The TEMPO assessment should have considered future nuisance; this tree is clearly outgrowing the position it is in due to the shading of River Cottage, near future damage to the road and the lack of scope for appropriate pruning.

The structural safety of this tree is of paramount importance and there appear to be some contradictions in relation to this within the report. Two of the limbs which follow the hedge line, and therefore would affect the road if there were some event, are considered most at risk of structural failure. This presents a potential hazard to road users. The report mentions that there are a number of tight forks, something that has been identified before as a potential risk, but these are classed as 'not of imminent concern'. I have to question when such concern is likely to arise.

The crown is described as imperfect and I would agree with this as most beech trees have a more vertical appearance. However, this tree has been specifically trimmed to ensure it spreads and this will undoubtedly put more stresses on the tight forks and jeopardize its structural integrity. The TEMPO guide is used to assess the suitability of TPOs but this report does not take account of the current or future problems for local inhabitants, lack of light, over-hanging branches, damage to roads, drains or telegraph wires, and the ever present possibility of structural failure causing danger.

The brief section in the report headed 'Other Factors' refers to the Dawn Redwood which stands on my front lawn. Mr Bessington actually commented on the stunning colour of this tree and mentioned that it is commonly referred to as the 'dinosaur tree' as it had been thought to be extinct. The canopies of the beech and the redwood are merging and this is damaging the redwood. Photographs illustrating this point were included with my earlier letter. The redwood is approximately 45 years old and will become a significant specimen if it is allowed the space to grow unimpeded.

I have conducted a survey of the local area from both the ground and the air. Within a five mile radius of Stanton-upon-Hine Heath there are, conservatively, over 100 Copper Beech trees, however I have been unable to identify another Dawn Redwood. The redwood is distinctive due to its shape and its bright green colour.

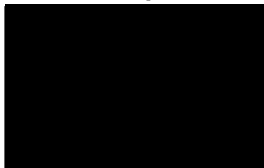
The World Conservation Union classes this species as critically endangered, whereas the Copper Beech is classified as being of least concern. The beech tree would need to be pruned by at least five metres on the eastern side to allow the Dawn Redwood to recover and continue to grow unimpeded. A reduction limit of 10% of branch length is nowhere near sufficient. The TEMPO guidance mentions adverse effects on adjacent trees of better quality. Has this criteria been fully taken into account when arriving at the 'definitely merits TPO' assessment?

The conclusions in my previous letter still stand in that safety is obviously of paramount importance here as the tree overhangs a road and could easily damage a neighbouring property if we experience a storm whilst the canopy is full. I do, however, believe that the stewardship of the Dawn Redwood, which is rare and will become a fine example if it is allowed room to grow, is of a higher priority than that of the Copper Beech which is mature, relatively common and in decline. Incidentally, I have a further nine copper beeches of various sizes on my land and my neighbour has one. I would be happy to move one of the smaller copper beeches to a sensible clear position in my garden if required. Big and purple is not a reason to protect this tree.

As I have not previously had dealings with any part of Shropshire Council, and I have been unable to find the relevant information online, would you please advise me as to who is responsible for making the final assessment of the merits or otherwise of this preservation order.

I look forward to receiving your response.

Yours sincerely

A solid black rectangular box used to redact the signature of Michael Cauchi.

Michael Cauchi

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Ms A King
Tree Service
Natural Environment Team
The Shirehall
Abbey Foregate
Shrewsbury
Shropshire
SY2 6ND



13 June 2015

Dear Ms King

Tree Preservation Order: SC/00228/15

I am writing to object to the above numbered tree preservation order issued 29 May 2015.

My first objection concerns the amenity value of the tree. Although the tree in question is large and purple, it is only visible for a short period as you drive into the village and only then if you know to look for it. It is not accessible by villagers as it is within my garden and overhangs the road. It is only visible from a few adjacent properties, one of which is shaded significantly by this tree. So I believe it has limited amenity value.

I have a report from a tree surgeon indicating that the tree is fully mature and beginning its decline. There are tight joints which are potential weak junctions. The crown is very heavy, with a huge spread, loading considerable stresses on the weak junctions. Future failure of any of these heavy limbs must be considered possible, resulting in danger to the highway, the house opposite and my own house. Added to this, the growth is virtually all at the end of the limbs. There are no suitable pruning points and therefore to reduce the crown significantly would almost certainly mean the death of the tree. To summarise, the future of the tree is dubious.

A council arboriculturist visited and we are awaiting his full report, however he did confirm a lot of the comments above but believes the tree is sound and could cope with minimal pruning; a maximum of 10%.

My second objection to a TPO being placed on this tree is the fact that the crown of the beech tree is encroaching on a beautiful Specimen Dawn Redwood, *Metasequoia glyptostoboides*; commonly call the dinosaur tree as it was thought to be extinct. This encroachment is consequently pushing the Redwood off the vertical and preventing growth on one side, see attached photograph. This tree is approximately 45 years old and is the only such tree that I am aware of in this local area. The World Conservation Union class this

species 'Critically Endangered'. Therefore, I believe this is a more important specimen and should be the priority.

I anticipate that the Council's arboriculturist will report that the beech tree is safe. Safety is obviously of paramount importance here as the tree overhangs a road and could easily damage a neighbouring property if we experience a storm whilst the canopy is full. I do, however, believe that the stewardship of the Dawn Redwood is a higher priority than that of the Copper Beech which is mature and in decline. The beech tree would need to be pruned by at least five metres on the eastern side to allow the Dawn Redwood to recover and continue to grow unimpeded. However, to ensure that the Beech tree continues to be both aesthetically pleasing and safe, it would need to be reduced by this amount all round.

I look forward to receiving your response.

Yours sincerely



Michael Cauchi

22 JUN 1975



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The Natural Environment
The Shirehall,
Abbey Foregate
Shrewsbury
Shropshire
SY2 6ND

ENTERED ON
COMPUTER



Date: 12th June 2015

For the attention of:
Andrea King
Tree and Woodland Amenity Protection Officer

Reference:-

Shropshire Council (Mill House, Stanton Upon Hine Heath) TPO 2015.
TREE PRESERVATION ORDER:- SC/00228/15

*Thank you for the above Notice of tree preservation order dated 29th May 2015
Due to the close proximity of the above mentioned Copper Beech tree to my property I have
a number of objections I must bring to your attention with respect to this tree preservation
order, to include:*

- (1) The tree canopy is very close to my property roof currently causing blockage risks to my roof drain/guttering. In addition blocking significantly light into the property, with the result of requiring lighting to be on at all times within the kitchen and dining room. Considering the above points currently I feel the tree needs to be significantly cut back to address these concerns.*
- (2) The size of the tree dwarfs my property and I worry about damage risk to the foundations, but moreover physical contact from falling branches.*

In summery I perceive that this Preservation Order will restrict management of the tree growth, as such the above points will become more prevalent over time.

Yours sincerely

Mrs W.P Cope

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TREE EVALUATION METHOD FOR PRESERVATION ORDERS - TEMPO

SURVEY DATA SHEET & DECISION GUIDE

Date: 28/05/15 Surveyor: ANDREA KING

Tree details SC/00228/15
 TPO Ref (if applicable): Tree/Group No: T1 Species: COPPER BEECH
 Owner (if known): MILL HOUSE Location: STANTON UPON HINE HEATH

REFER TO GUIDANCE NOTE FOR ALL DEFINITIONS

Part 1: Amenity assessment

a) Condition & suitability for TPO

- 5) Good Highly suitable
- 3) Fair/satisfactory Suitable
- 1) Poor Unlikely to be suitable
- 0) Dead/dying/dangerous* Unsuitable

Score & Notes
5

* Relates to existing context and is intended to apply to severe irremediable defects only

b) Retention span (in years) & suitability for TPO

- 5) 100+ Highly suitable
- 4) 40-100 Very suitable
- 2) 20-40 Suitable
- 1) 10-20 Just suitable
- 0) <10* Unsuitable

Score & Notes
2

*Includes trees which are an existing or near future nuisance, including those clearly outgrowing their context, or which are significantly negating the potential of other trees of better quality

c) Relative public visibility & suitability for TPO

Consider realistic potential for future visibility with changed land use

- 5) Very large trees with some visibility, or prominent large trees Highly suitable
- 4) Large trees, or medium trees clearly visible to the public Suitable
- 3) Medium trees, or large trees with limited view only Suitable
- 2) Young, small, or medium/large trees visible only with difficulty Barely suitable
- 1) Trees not visible to the public, regardless of size Probably unsuitable

Score & Notes
4 - Roadside tree

d) Other factors

Trees must have accrued 7 or more points (with no zero score) to qualify

- 5) Principal components of formal arboricultural features, or veteran trees
- 4) Tree groups, or principal members of groups important for their cohesion
- 3) Trees with identifiable historic, commemorative or habitat importance
- 2) Trees of particularly good form, especially if rare or unusual
- 1) Trees with none of the above additional redeeming features (inc. those of indifferent form)
- 1) Trees with poor form or which are generally unsuitable for their location

Score & Notes
1

Part 2: Expediency assessment

Trees must have accrued 10 or more points to qualify

- 5) Immediate threat to tree inc. s.211 Notice
- 3) Foreseeable threat to tree
- 2) Perceived threat to tree
- 1) Precautionary only

Score & Notes
5

Part 3: Decision guide

- Any 0 Do not apply TPO
- 1-6 TPO indefensible
- 7-11 Does not merit TPO
- 12-15 TPO defensible
- 16+ Definitely merits TPO

Add Scores for Total:
17

Decision:
TPO ✓

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Tree inspection report

Beech tree at Mill House, Stanton upon Hine Heath

5th June 2015

Species: *Fagus sylvatica* Purpurea

Position: The tree stands in a hedgerow on a raised bank beside an old driveway entrance fronting the lane opposite River cottage, some 0.5m from the road and 1m above it, and 0.7-1m above the said driveway depending on the exact place of measurement and some 0.7m from it. The tree stands to the South West of Mill house and due North of River cottage, though it is closer to River cottage.

Inspection method: Visual Tree inspection (C. Mattheck) using tapes, clinometer, steel probe. No invasive techniques used.

Impediments to inspection: Hedge, ivy, wire/barbed wire

Age: 140-150 years (estimate)

(Note estimating age of an open grown garden beech is subject to broad variation depending on soils, exposure, historic competition and the genetics of the individual specimen. In this case the stem may actually comprise of 2 fused co-dominant stems which would substantially increase its girth. Given the relatively modest height and lack of limb thickening, good extension growth and a lack of many age related symptoms, its actual age may therefore be closer to 70% of that stated.

Illustrative figures given for the likely life expectancy of beech trees in the UK vary widely between 150 and 900 years (or over 1000 if pollarded) but most authorities seem to fall into the 200-300 year age range and most commonly 230-250. It would appear sensible to avoid both the extremes in this range as the exceptions rather than the rule).

Height: 17m

(Note maximum height for this variant is some 35m)

Crown radius: 11m (average)

Stem diameter (dbh): 114cm

(Note beech are said to reach veteran status when their stem diameter reaches over 143cm, depending upon other age related criteria corroborating this rather than indicating exceptional growth)

Spring of crown approx. 2-2.6m

Base: Solid, very gentle, modest fluting and buttressing. No abnormal swellings/bottle butt etc. No evidence of fungal fruiting bodies past or present or of other pathogens. No obvious damage or wounds. Appears healthy and sound.

Stem: Appears massive and solid. Large lower limb forks from stem at 2m and soon gains a steady diameter of approx. 55cm, remainder of crown breaks approx. 60-70cm above this. The lower limb exhibits a bark ridge on the driveway side for over a metre (much less on the opposite side). Bark ridges are strengthening features, though suggest imperfect union. There is no sign of movement/cracking, the union is not inturned and there is no included bark. From the roadside it appears the upper stem is most likely made substantially from a union of two upright stems, but with similar observations to the lower branch union being relevant. There was a reasonable breeze during parts of the inspection and no comparative movement was noting or 'creaking/squeaking' noises heard. The stem therefore appears stable. The stem and lower branches have been crown raised but all pruning wounds have occluded with one exception which has an evident, as yet unoccluded, opening of some 20cm diameter. However even this is actively occluding and the wound is modest, especially in relation to stem diameter. Appears healthy and sound.

Crown: 3 initial main limbs soon break into 7 major and sub-limbs, with the main scaffold structure having a mostly upright form similar to a blown out umbrella. The limbs, though long are not grossly thickened and most forks, even where tight, have 'U' shaped origins. An exception being the two modest limbs which approximately follow the hedge line running towards Moreton Corbett and these might be considered at most risk of structural failure. Subordinate limbs allow for significant crown spread. Extension growth of shoot tips is good. Foliage density and leaf size is good. Appears healthy and sound.

Amenity assessment: This is a substantial tree in a highly visible location where it can be seen and appreciated by many people. It is also prominent because of its colouration making it distinctive from most other trees in the area and has a visually attractive form and good foliage density giving further impact and a pleasingly healthy appearance.

General observations:

The tree has a substantially spreading crown, though in no way abnormally so and there appears to be some scope for modest reductions in end weight and windage (wind resistance of 'sail' area). The structure of the crown, like almost every tree is imperfect with regard to the ideal phenotypic model, exhibiting a number of tight forks which is quite common with the species, but without any structural weakness giving rise to imminent concern. There are no major open wounds which can be a concern with a tree without a true durable heartwood, though it appears to be slightly less of an issue with the purple variant. Overall structural integrity was adequate with no signs of present problems.

There was no presence noted of any major beech pathogens (e.g. *Armillaria*, *Meripilus*, *Ganoderma* sp, *Phytophthora* sp., *Ustulina*, *Nectria* and *Stereum* canker, Beech Bark Disease etc.). Overall the tree appeared to have good health and vigour.

The Useful Life Expectancy or retention span for a tree is one factor in assessing suitability for a Tree Preservation Order (TPO). (In this we use the published Tree Evaluation Method for Preservation Orders - TEMPO - as a guide for suitability). If this was deemed to be less than 10 years then a TPO is probably unsuitable. If 10-20 years it can be justified if other factors strongly support. If over 20 years and upwards then the lifespan is not an issue.

Given all the above this tree would appear to have a useful Life expectancy substantially exceeding the 10 year minimum and probably fitting easily into the 20-40 year band or more.

Root Protection Area: The root protection area here may be modified slightly by the presence of the road, but in general would extend in a radius from the centre of the tree to a distance of some 13.7m. Within this area any excavations or works likely to have any impacts on rooting would be subject

(by agreement) to special measures so as to have no negative impacts or to reduce those impacts to acceptable levels.

Other factors: There is a Dawn Redwood tree at just over 11m distance from the beech. This tree has an average crown radius of 4m. This tree is an early mid-mature specimen, still very much actively growing and appears to be of good health and condition. The crowns overlap at their margins. The tree has good form and could potentially become a significant specimen as it matures, though unlikely to make the same dramatic impact as the beech due to the latter's very distinctive colouring. There is scope for some pruning on the beech's eastern aspect to minimise impact on the Dawn redwoods western crown, though as the Dawn Redwood grows it may not be possible to keep them entirely separate.

Scope for tree works:

A dense smooth crown outline means that the tree has a good network of peripheral leaf bearing shoots, which gives reasonable opportunities for modest crown reductions. Beyond this limbs are relatively long which limits opportunities for more severe crown reductions. In any case mature beech do not tolerate heavy reductions well, often leading to decline or even death.

Modest crown reductions (say to a maximum of 10% branch length) actually have a far more significant impact on crown volume, weight and sail area (windage) due to the volume being a factor of the radius to the power 3.

Whilst I would not advise the need for any present tree works, modest reductions would be arboriculturally possible, but the tree and species are not conducive to more major reductions.

Conclusion: Whilst the maturity of the tree, which is responsible for its significance, inevitably limits its retention span, and like all trees it has its imperfections and limitations, this tree represents an important amenity. Using the TEMPO system for assessment, the tree achieved a score of 16 which places it into the 'Definitely merits TPO' category and hence the serving of a TPO on the tree is appropriate at the present time. Trees are of course subject over time to many biotic, climatic and human related factors. The condition and suitability of the tree may therefore change over time and indeed is bound to do so in the fullness of time. Therefore the suitability for protection under a

TPO and the works that might reasonably be carried out will also vary over time and may always be reviewed if appropriate.

John Blessington

Arboricultural officer

Shropshire council



1. Aerial view



2. View of tree from easterly direction



3. View of tree from westerly direction





Committee and Date
 North Planning Committee
 2nd September 2015

Item
11
 Public

SCHEDULE OF APPEALS AS AT COMMITTEE 2ND SEPTEMBER 2015

Appeals Lodged

LPA reference	14/03629/FUL
Appeal against	Refusal
Committee or Del. Decision	Delegated
Appellant	Mr Arthur Richards
Proposal	Proposed two detached houses on land adjacent to Heath Cottage
Location	Heath Cottage, Weirbrook, West Felton, Oswestry, SY11 4ES
Date of appeal	15.07.2015
Appeal method	Written Reps
Date site visit	
Date of appeal decision	
Costs awarded	
Appeal decision	

LPA reference	14/02049/OUT
Appeal against	Refusal
Committee or Del. Decision	Delegated
Appellant	Mr K G Egerton
Proposal	Outline planning application for the erection of 10 dwellings to include 2 affordables
Location	Land Opposite The Garage, Welshampton, Ellesmere
Date of appeal	26.06.2015
Appeal method	Written Reps
Date site visit	
Date of appeal decision	
Costs awarded	
Appeal decision	

LPA reference	15/00971/FUL
Appeal against	Refusal
Committee or Del. Decision	Delegated
Appellant	Mr & Mrs Colin & Jenny Boswell
Proposal	Demolition of existing outbuilding and erection of a new detached dwelling
Location	1 Wingthorpe, Mount Drive, Oswestry, SY11 1BQ
Date of appeal	30.07.2015
Appeal method	Written Reps
Date site visit	
Date of appeal decision	
Costs awarded	
Appeal decision	

LPA reference	14/03370/FUL
Appeal against	Refusal
Committee or Del. Decision	Committee
Appellant	David Wilson Homes (Mercia)
Proposal	Erection of 68 dwellings to include on-site open space provision
Location	Teal Drive, Ellesmere, SY12 9PX
Date of appeal	04.08.2015
Appeal method	Inquiry
Date site visit	
Date of appeal decision	
Costs awarded	
Appeal decision	

LPA reference	15/01590/PMBPA
Appeal against	Refusal
Committee or Del. Decision	Delegated
Appellant	P R Brisbourne and Son C/O Halls Holdings Ltd
Proposal	Application for Prior Approval under Part3, Class MB of the Town & Country Planning (General Permitted Development) (Amendment and Consequential Provisions) (England) Order 2014 for the Change of Use from Agricultural Use to Residential
Location	Painsbrook Farm Painsbrook Lane Hadnall Shrewsbury
Date of appeal	18.08.15
Appeal method	Written Representation
Date site visit	
Date of appeal decision	
Costs awarded	
Appeal decision	

LPA reference	14/05639/OUT
Appeal against	Refusal
Committee or Del. Decision	Delegated
Appellant	Mr & Mrs M Davies C/O Les Stephan Partnership
Proposal	Outline application for the erection of 4 detached dwellings (All Matters Reserved)
Location	Land Adjoining Crawforton Shrewsbury Road Hadnall Shropshire
Date of appeal	18.08.15
Appeal method	Written Representation
Date site visit	
Date of appeal decision	
Costs awarded	
Appeal decision	

Appeals determined

LPA reference	14/02546/OUT
Appeal against	Refusal of Planning Permission
Committee or Del. Decision	Delegated
Appellant	Mr & Mrs E H Maiden
Proposal	Outline application for the erection of 8 dwellings to include means of access
Location	Land At O.S.5073 Newport Road Hinstock Shropshire
Date of appeal	24.04.15
Appeal method	Written Representation
Date site visit	
Date of appeal decision	30.06.15
Costs awarded	
Appeal decision	Dismissed

LPA reference	14/01426/OUT
Appeal against	Refusal of Planning Permission
Committee or Del. Decision	Committee
Appellant	Mr P Eardley C/O Balfours
Proposal	Outline application for the erection of 14 open market dwellings and 3 affordable dwellings to include access, layout, scale and appearance
Location	Land South Off Chapel Lane Chapel Lane Norton In Hales Shropshire
Date of appeal	20.03.15
Appeal method	Written Representation
Date site visit	
Date of appeal decision	13.08.15
Costs awarded	
Appeal decision	Allowed

LPA reference	14/02529/FUL
Appeal against	Refusal
Committee or Del. Decision	Delegated
Appellant	R and J Roberts
Proposal	Siting of a chalet caravan to provide reception desk office and wardens accommodation
Location	Bridleway Caravan Park, Henlle, Gobowen, Oswestry
Date of appeal	27.03.15
Appeal method	Hearing
Date site visit	
Date of appeal decision	17.08.15
Costs awarded	
Appeal decision	Dismissed

Appeal Decision

Site visit made on 30 June 2015

by Louise Nurser BA (Hons) Dip UP MRTPI

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

Decision date: 29 July 2015

Appeal Ref: APP/L3245/W/15/3005739
Plot O.S. 5073, Hinstock, Shropshire TF9 2NG

- 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 Mr & Mrs E H Maiden against the decision of Shropshire Council.
 - The application Ref 14/02546/OUT, dated 5 June 2014, was refused by notice dated 3 September 2014.
 - The development proposed is erection of 8 dwellings.
-

Decision

1. The appeal is dismissed.

Procedural matters

2. The application was made in outline with all matters reserved for subsequent consideration other than access. Nevertheless, an indicative plan and layout has been submitted which to which I have had regard.
3. I have been referred to policies within the emerging Shropshire Council Site Allocations and Management of Development Plan (DP). Since the appeal has been made formal consultation has begun on a number of Main Modifications. In line with the advice set out in Paragraph 216 of the National Planning Policy Framework (The Framework) I will therefore accord the policies significant weight commensurate with the advanced stage of preparation.
4. An interested party has referred to the site as falling within the Green Belt. This is not the case.

Main Issues

5. The main issues are whether the location of the proposed development would provide a suitable site for housing having regard to the housing supply; be consistent with the principles of sustainable development having regard to the National Planning Policy Framework (The Framework) and the development plan; and the effect of the proposed development on the character and appearance of the wider area.

Reasons

6. The appeal site lies outside of the village settlement boundary of Hinstock as defined both by the North Shropshire Local Plan (LP), and the emerging Shropshire Council Site Allocations and Management of Development Policies Development Plan (DP). It is currently used as agricultural grassland, and is

enclosed by trees and hedgerows. The busy A41 trunk road skirts the western boundary of the appeal site, and then bypasses Hinstock. The remainder of the western boundary continues along Newport Road, which is the stopped up former main road, which leads to the village.

Housing supply

7. The Council considers that it is able to demonstrate a 5 year supply of deliverable housing and has provided me with an updated calculation as of the end of November 2014 which following the Sedgefield method demonstrates around a 5.4 year supply.
8. I note that the appellants' case refers me to a generalised, developer wide, doubt over the validity of the figures, whilst not providing a detailed critique. Nonetheless, the argument is mooted that the deliverability of sites which have been granted planning permission subject to a section 106 agreement is uncertain: particularly, in the context of Shropshire Council's position on affordable housing whereby planning obligations are being requested on sites which fall below the 10 dwelling threshold set out in The Framework. However, I note that the Council has discounted 10% of the dwellings which are derived from planning permissions which are dependent on the completion of planning obligations.
9. Irrespective of whether such obligations were to be signed, the Council considers that the principle of such developments as housing sites remains acceptable. Moreover, the footnote to Paragraph 47 of the Framework does not require that only sites with planning permission should be included within the 5 year housing supply.
10. Consequently, on the basis of the evidence before me, and in the context of 2 recent appeal decisions¹ at which the Inspector concluded that the Council had a 5 year supply and the recent revision to the Planning Practice Guidance² that, 'Once published, such assessments should normally not need to be updated for a full twelve months unless significant new evidence comes to light or the local authority wishes to update its assessment earlier', I conclude that the Council has a 5 year deliverable housing supply. Consequently, in accordance with Paragraph 49 of the Framework the relevant policies for the supply of housing are considered to be up-to-date.

Location of development

11. The proposed development is located in the open countryside. Consequently, it falls to be considered in the context of Policy CS5 of the Shropshire Local Development Framework: Adopted Core Strategy 2011 (CS) which sets out a number of detailed criteria to control development in the countryside which are broadly consistent with the provisions of Paragraph 55 of the Framework.
12. It is not part of the appellants' case that the proposed development would satisfy the list of special circumstances for housing in the open countryside listed in the Framework. Rather, that the proposed development would result in local economic and community benefits which is an objective of Policy CS5 of the CS, and consistent with paragraph 55 of The Framework, "To promote sustainable development in rural areas, housing should be located where it will

¹ APP/L3245/W/14/3000672 and APP/L3245/W/14/2228348

² ID 3- 033- 20150327

enhance or maintain the vitality of rural settlements.” This would be through the construction of bungalows that would be attractive to the elderly.

13. I am aware that following the construction of the bypass the focus of the village shifted further north. Existing development in Hinstock is concentrated at the northern end of the village. It is clear from the inset to the Policies Map of the emerging DP that further development is to be concentrated within the village settlement close to the existing village facilities. These include a small shop with a Post Office, a village hall, The Falcon Public House, two churches and a primary school. Outside of the village settlement boundary there are a number of properties which front rural lanes such as Marsh Lane resulting in a dispersed pattern of development within the open countryside.
14. I note the appellants' have made reference to a bus service serving Newport and Market Drayton for which I have not been provided with any information as to the frequency of the service.
15. With the exception of the Anglican Church the village facilities are concentrated at the northern end of the village. As part of my site visit I was able to follow the narrow footpath to walk to the village. However, this requires crossing the Newport Road close to its junction with the busy A41. I note that the appellant states that the junction 'has artificially separated the area where the application site is located from the village'.
16. I was aware that traffic travels at a high speed when exiting and joining the A41. There is no safe haven for pedestrians and due to its configuration there is limited visibility at the junction. Therefore, I do not consider that this would be a safe route into the village for either the elderly or children. Whilst I am aware that this was not raised by the Council it was raised in representations. I consider that taken together with the narrow footpath, lack of street lighting and distance of around 800 m to the main facilities of the village that it would be unlikely, and potentially unsafe, for future residents of the proposed development to walk or cycle to the village, particularly in the winter months. Consequently, whilst future occupants would use the village's facilities it is more probable given the close proximity to the A41 that they would drive to other settlements which provide a greater choice.
17. It is envisaged that the proposed development would be built as bungalows, and that these would be targeted at, and attractive to the elderly and therefore provide a social benefit. I am aware that indicative drawings have been submitted, together with dimensions of the properties. However, as the proposal is in outline only, with all matters reserved other than access, there is nothing before me to confirm that the dwellings would be built as bungalows. Even if they were, given the difficulties in accessing the facilities in the village, the site would be particularly unsuitable for the elderly.
18. Consequently, I conclude that the proposed development would not be located in an accessible location, where opportunities for walking, cycling and the use of public transport can be maximised, and that the proposed development would not enhance or maintain the vitality of the rural settlement by bringing local and community benefits. Therefore the proposed development would be contrary to Policies CS5 and CS6 of the CS and the core principle of the Framework to focus significant development in locations which are or can be made sustainable.

Character and appearance

19. An indicative plan shows the siting and location of the 8 proposed bungalows with garages around a cul-de-sac with the southern portion of the site remaining as paddock and the Council has raised no objection to the proposed access.
20. The appeal site lies in a large, roughly rectangular shaped, field. In the immediate vicinity, the site is surrounded by fields to the east and grassland to the south. At the time of my site visit a number of horses were grazing in the surrounding fields. Immediately, to the north of the site lies Dale House. Beyond that is the garage and associated hardstanding which has permission to be developed for housing. Beyond this is more grassland and Brook House and Marsh Lane.
21. Further to the east it is possible to make out a number of properties, which typify the dispersed pattern of development characteristic of the surrounding countryside: houses fronting the highway within a wider patchwork of fields bounded by hedgerows with trees, and narrow rural lanes. Further towards the village, there is woodland to the west and a large open field to the east which was being grazed by cows on the day of my visit.
22. Planning permission has been granted for 5 houses on the site of the garage to the north of the site. However, I understand that the properties have been designed to front the road. Moreover, as there is no certainty that this would be developed I have considered the proposed development in the context of its impact on the surrounding area.
23. The proposed development would be visually distinct from the existing settlement as it is a considerable distance away separated by a difficult junction, woodland and open agricultural fields.
24. Whilst, I am aware that in the village itself there are examples of modern development which do not face the road, the proposed layout, albeit indicative in nature would not reflect the more typical traditional dispersed development fronting the highway found outside of the settlement.
25. Moreover the proposed development would appear incongruous in the open countryside. My site visit took place in the summer when the hedgerows which bound the field were in full leaf as were the individual and groups of trees which screen the field from both the A41, and the surrounding fields and from Newport Road. However, in the winter the proposed development would be visible within the open countryside and in particular from a footpath which runs along the western boundary of the site and joins onto the A41. The site's visibility would be accentuated by the requirement of the Highway Authority that there be a 5 m wide access to the development which would result in a loss of the existing mature hedgerow.
26. Although, the design and appearance of the development would be considered at reserved matters, it is clear that due to the isolated nature of the development and number of properties, the appeal proposal would result in the suburbanisation of the countryside contrary to Policy CS6 of the CS and Policy MD3 of the emerging DP both of which are consistent with the principles of good design set out in the Framework.

Other matters

27. The appellants have offered to provide 2 affordable bungalows as part of the proposed development. However, as no planning obligation has been submitted I am unable to accord this any weight in my determination of the appeal. Moreover, the Council's position relating to affordable housing does not accord with Paragraph 204 of The Framework and therefore the provision of affordable housing would not have satisfied the relevant tests.
28. I am aware that populations of Great Crested Newts have been recorded close to the appeal site and that the survey methods of the ecological survey do not accord with Natural England's standing advice. However, as I am dismissing the appeal this has not been a determinative consideration.
29. The appellant has drawn my attention to other sites in the immediate area where planning permission has been granted. However, I do not have the full details of these proposals. Moreover, in any case I have considered the appeal on its own merits.

Conclusion

30. For the reasons set above, and having regard to all matters raised, I conclude that the appeal should be dismissed.

L. Nurser

INSPECTOR

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Appeal Decision

Site visit made on 4 August 2015

by Jonathan Manning BSc (Hons) MA MRTPI

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

Decision date: 13 August 2015

Appeal Ref: APP/L3245/W/15/3004618

Land off Chapel Lane, Norton in Hales, Market Drayton, TF9 4AU.

- 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 Mr Peter Eardley against the decision of Shropshire Council.
 - The application Ref 14/01426/OUT, dated 28 March 2014, was refused by notice dated 8 January 2015.
 - The development proposed is the erection of 14 open market dwellings and 3 affordable dwellings.
-

Decision

1. The appeal is allowed and planning permission is granted for the erection of 14 open market dwellings and 3 affordable dwellings at Land off Chapel Lane, Norton in Hales, Market Drayton, TF9 4AU, in accordance with the terms of planning application ref: 14/01426/OUT, dated 28 March 2014, subject to the conditions in the attached schedule.

Application for costs

2. An application for costs was made by Mr Peter Eardley against Shropshire Council. This application is the subject of a separate Decision.

Procedural Matters

3. The application has been made in outline, with full details provided in relation to access, layout, appearance and scale. Landscaping is to be considered as a reserved matter.
4. The development description set out in the application form and the appeal form differ. I consider that the latter most accurately reflects the proposal and has therefore been included in the banner above.

Main Issues

5. As a result of the evidence before me, I consider that the main issues of the appeal are: the effect of the proposal on highway and pedestrian safety; and whether the appeal site offers a suitable location for new housing, having regard to national and local planning policies relating to new housing in rural areas.

Reasons

Background

6. The appeal site is located off Chapel Lane, within the village of Norton in Hales. The site is currently in agricultural use and is bordered by residential development to the south and east, with open countryside to the north and west. A public right of way runs vertically through the appeal site, which provides pedestrian access to Main Road.

Highway and pedestrian safety

7. The proposal includes two new accesses into the appeal site from Chapel Lane. One would serve Plots 1 and 2 and the other would provide the main access into the appeal site. I observed that Chapel Lane is relatively narrow and when travelling towards Main Road it is difficult for two vehicles to pass one another. I agree with the Council's view that most vehicle movements would take this route in order to travel towards Market Drayton.
8. The Council are of the view that the cumulative impact of the proposal and a development for 12 dwellings on the other side of Chapel Lane that has been permitted at appeal¹ would cause harm to the local highway network. The Inspector of that case also considered the cumulative impact of both developments on the highway network as it currently exists and concluded that there would be no harm. As a result of my own observations on the site visit and that there have been no significant changes to the local highway network, I fully concur with the previous Inspector's findings. In addition, the Council has provided little evidence to support their case on this matter.
9. Notwithstanding this, the proposal includes highway improvements as part of the appeal scheme. These include the widening of the highway on the northern boundary of the appeal site and on the bend close to Chapel Cottage. I consider that these improvements would allow two vehicles to pass each other more readily and therefore would increase the flow of traffic, particularly from the proposal and the other development. This is a benefit of the scheme. I am also mindful that the Council's Highway Development Control Officer, considered that the proposed highway improvements mitigated any potential harm from the proposal.
10. I accept that there are other developments that have been permitted or proposed in the wider village, however, due to their locations, I consider that these are unlikely to generate any significant vehicle movements along Chapel Lane.
11. I acknowledge the concerns of interested parties that there are no footpaths along Chapel Lane, however, the proposal includes a footpath link to Main Road, which I observed, offers a safe walking environment into the village centre and its local services and facilities. Further, improvements are proposed to the kerbside refuge, where the footpath joins Main Road. Therefore, I consider that the proposal would also not cause any harm to pedestrian safety.
12. In conclusion, the proposal would not cause any harm to highway or pedestrian safety and therefore complies with Policy CS6 of the Shropshire Core Strategy (2011) (the CS).

¹ APP/L3245/A/14/2221627, dated 5 June 2015.

Suitable location?

13. The appeal site is located outside of the settlement boundary of Norton in Hales, as identified in the North Shropshire Local Plan (2005) and is therefore a location where residential development would not normally be permitted by Policies CS4 and CS5 of the CS. The Council has referred to the emerging Shropshire Site Allocations and Management of Development Plan (the SAMDev). I acknowledge that the Examining Inspector's further main modifications have recently been published, however, I understand that these are currently undergoing consultation and may therefore be subject to change. Consequently, whilst acknowledging the evident and admirable input from the local community of Norton in Hales into the preparation of the SAMDev, I consider that only limited weight can be afforded to the SAMDev and its policies at the current time.
14. The Government is seeking to significantly boost the supply of housing, as set out in Paragraph 47 of the National Planning Policy Framework (the Framework). Further to this, the Framework at Paragraphs 14 and 49 sets out that there is a presumption in favour of sustainable development. The Framework at paragraph 47 establishes that local planning authorities should identify and update annually specific, deliverable sites sufficient to provide 5 years' supply of housing against their objectively assessed housing need (OAN) for housing. The Council are of the view that it can demonstrate a 5 year housing land supply, which is contested by the appellant. However, I am mindful that even if I were to take the view that the Council could demonstrate a five year housing land supply, this does not in itself rule out sustainable residential development.
15. It is evident that the underlying principles behind the above policies are to secure a sustainable pattern of development and to ensure that the countryside and its character are protected. I consider that these aims are highly consistent with the Framework. Paragraph 55 of the Framework addresses housing in rural locations and advises that to promote sustainable development in rural areas, housing should be located where it will enhance or maintain the vitality of rural communities and that isolated homes in the countryside should be avoided.
16. The appeal site is located within close proximity to a range of local services and facilities in the form of a primary school, public house, village hall, church, recreational facilities (including cricket pitch, tennis court, bowling green and sport pavilion) and children's play area. Future occupants of the proposal would have safe access to these facilities on foot via the footpath that links to Main Road. In addition, whilst there is no bus service and therefore there may be some reliance on a private motor vehicle for other services and employment, Market Drayton is within a reasonable distance of approximately 2.4 miles and subsequently any such car journeys would be relatively short. The Council acknowledge within their appeal statement that the site is situated in a sustainable location with regard to accessibility and proximity to essential day to day services and a range of facilities and employment opportunities. For the reasons set out above, I agree with this view. This view was also shared by the Inspector for the development on the opposite side of Chapel Lane²,

² APP/L3245/A/14/2221627, dated 5 June 2015.

which also adds weight to my conclusion. The proposal would consequently, not result in isolated dwellings in the countryside.

17. The proposal would increase the level of patronage to local services and facilities, which would help to enhance and maintain the vitality of Norton in Hales and would be a local benefit. I acknowledge the concern of local residents with regard to social cohesion. However, I consider that when considered with other developments permitted in the village, the resulting increase in housing and subsequent new residents would not be of such a level to result in any material harm in this regard. The Council also share this view. Local residents have also raised concern that there is insufficient infrastructure to support new housing. However, there is no substantive evidence before me to support this view.
18. The Council has not raised any concerns that the proposal would cause harm to the character and appearance of the area. The appeal site is bordered by residential development on two sides and Chapel Lane to the north. It therefore has a clear relationship with the existing built development of the village. I consider that the proposal would 'square-off' the existing development to the south and east and would not be viewed as an extension into the open countryside. The proposal includes a variation of dwelling types and architectural styles that would complement the variation of the existing dwellings in close proximity. I consider the proposed density to be appropriate for the local context. Consequently, I consider that the proposal would not cause harm to the character of the countryside. For these reasons and for the avoidance of doubt, I also consider that the proposal would preserve the character or appearance of the nearby Conservation Area³.
19. In conclusion, it is acknowledged that the appeal site is located outside of the defined development boundary and therefore runs contrary to local development plan policies, however, the harm that would result to the principles of these policies would be very limited. Further, I also consider that the proposal complies with Paragraph 55 of the Framework.

Other matters

20. The proposal would deliver social benefits associated with the delivery of 14 open market dwellings and 3 affordable units. A signed and dated planning obligation has been provided to suitably secure the provision of affordable housing. From the evidence before me, I consider that the requirement for these provisions meets the three tests set out in Paragraph 204 of the Framework for planning obligations, which reflect those set out in Regulation 122 of the Community Infrastructure Levy (CIL) (2010). The construction of the dwellings as well as the increased spending of future occupants would bring economic benefits, some of which would be experienced locally. Given the level of proposed new housing, I consider that the social and economic benefits carry a moderate level of weight in the proposal's favour.
21. In response to the concerns of local residents the appellant has undertaken a Phase 2 Environmental Survey to determine the presence of great crested newts in local garden ponds close to the appeal site. This concluded that there is only a minimal risk of potential damage to an individual great crested newt during the construction phase of the proposal and a European Protected

³ In accordance with Section 72 (1) of the Planning (Listed Buildings and Conservation Areas) Act 1990.

Species Licence is not considered necessary. The Phase 2 Environmental Survey sets out a number of recommendations to be implemented during the construction works, to mitigate any potential harm and these can be secured by a suitable planning condition. The Council's ecologist has confirmed that this is acceptable and I see no reason to take a different view.

22. During my site visit, I observed the relationship of the proposed dwellings with the existing properties that border the site to the east and south. Due to the layout of the proposal and the dwellings themselves, the separation distances involved and their orientation to the existing dwellings, there would be no harm to the living conditions of the occupants of neighbouring properties, through overlooking, overbearing effect or loss of day and sunlight.
23. There is no evidence to suggest that the proposal would increase flood risk and I consider that matters associated with drainage can be suitably addressed by a planning condition, requiring a scheme to be agreed with the Council. Further, I have not been provided with any substantive evidence that the proposal would affect cyclists using route No 75.

Planning balance and overall conclusion

24. The proposal is located outside of the defined development boundary and therefore runs contrary to local planning policies in this regard. There is some dispute whether the Council can demonstrate a five year housing land supply and I acknowledge the substantial material provided by both parties, however, given my findings, this matter has not been decisive to my decision. The proposal would not cause any harm to the character of the countryside and is sustainably located close to local services and facilities. The identified harm in this regard is therefore very limited.
25. I have concluded that the proposal when considered cumulatively with other recently permitted or planned developments, would not cause harm to highway or pedestrian safety. Subject to suitable planning conditions, no other harm has been identified.
26. On the other hand, the proposal would deliver social and economic benefits through the delivery of new housing and would maintain and enhance the vitality of Norton in Hales and would not result in isolated dwellings in the countryside. The proposal would therefore accord with national policy on the delivery of housing in rural areas, in the form of Paragraph 55 of the Framework.
27. For the reasons set out above, I consider that on balance, the proposal fulfils the three roles of sustainable development as set out in the Framework. Accordingly, there are material considerations that indicate that the proposal should be allowed despite the development plan conflict associated with the appeal site's location outside of the defined development boundary and therefore not being plan-led.
28. As identified by a local resident the Human Rights First Protocol Article 1 requires that the desires of landowners are balanced against the impact on local residents. I have considered the harm of the proposal, its compliance with national and local planning policies and the benefits of the scheme. A balancing exercise has then been undertaken, which I consider fulfils the

requirements of the First Protocol Article 1. Further, I consider that the proposal does not interfere with the human rights of any local residents.

29. For the reasons set out above and having regard to all other matters raised, including the concerns of local residents and the Parish Council, the appeal is allowed.

Conditions

30. I have considered the Council's 11 suggested conditions against the tests set out within the Framework and the advice provided by the Government's Planning Practice Guidance and have amended them where required. In the interests of sound planning and for the avoidance of doubt, conditions are imposed that require: the standard outline and commencement controls, as well as for the development to be carried out in accordance with the approved plans.
31. To ensure the suitable appearance of the proposal, conditions are necessary that require details of: the means of enclosure of the site, the levels of the site, and the finished floor levels; external materials; and plans and sections for windows and doors, all to be provided and agreed with the Council.
32. In the interests of highway and pedestrian safety, conditions are imposed that require the proposed highway and pedestrian improvements to be implemented and for full engineering details of the access onto Chapel Lane, internal access road layout and provision of visibility splays to be provided before the development is first occupied. To safeguard the living conditions of neighbouring residents and in the interest of highway safety, a condition is necessary that requires a Construction Traffic and Site Management Plan to be agreed with the Council.
33. The Council has suggested that drainage details be included within a condition that primarily relates to the appearance of the proposal. However, for clarity, I consider that it is appropriate to include a specific condition relating to drainage, which requires full details to be agreed with the Council, before development commences. This does not alter the requirement for such details to be provided and therefore the appellant has not been prejudiced.
34. The Council's ecologist has requested four additional conditions be imposed, which require: the development to be undertaken in accordance with the recommendations of the Phase 2 Environmental Survey; an external lighting plan to be provided; details of five woodcrete bat boxes; and details of five woodcrete artificial nests suitable for small birds to be provided. I consider that given the findings of the Phase 1 and 2 surveys that such conditions are necessary in order for the proposal to be acceptable in planning terms.

Jonathan Manning

INSPECTOR

Schedule of Conditions

- 1) The development for which permission is hereby granted shall not be commenced before detailed plans showing the landscaping of the site (referred to as "the reserved matter") has been submitted to and approved in writing by the local planning authority.
- 2) Application for the approval of the reserved matter shall be made not later than the expiration of 12 months from the date of this permission.
- 3) The development hereby permitted shall be commenced not later than the expiration of two years from the approval of the reserved matter.
- 4) The development hereby permitted shall be carried out in accordance with the following approved plans:
 - 1747/01 Rev O (Revised Site Layout Proposals (Location and Block Plans))
 - 1747/10 (House Type A Floor Plans Plot 1)
 - 1747/11 (House Type A Elevations Plot 1)
 - 1747/12 (House Type B Floor Plans Plots 2 & 12)
 - 1747/13 (House Type B Elevations Plots 2 & 12)
 - 1747/14 (House Type C Floor Plans Plot 3)
 - 1747/15 (House Type C Elevations Plot 3)
 - 1747/16 (House Type D Floor Plans Plot 4)
 - 1747/17 (House Type D Elevations Plot 4)
 - 1747/18 (House Type E Floor Plans Plots 8 & 9 – 13 & 14)
 - 1747/19 (House Type E Elevations Plots 8 & 9 – 13 & 14)
 - 1747/20 (House Type F Floor Plans Plots 5 & 6)
 - 1747/21 (House Type F Elevations Plots 5 & 6)
 - 1747/22 (House Type J Floor Plans Plots 15 & 16)
 - 1747/23 (House Type J Elevations Plots 15 & 16)
 - 1747/24 (House Type H Floor Plans Plot 10)
 - 1747/25 (House Type H Elevations Plot 10)
 - 1747/26 (House Type I Floor Plans Plot 11)
 - 1747/27 (House Type I Elevations Plot 11)
 - 1747/28 (House Type G Floor Plans Plots 7 & 17)
 - 1747/29 (House Type G Elevations Plots 7 & 17)
 - 1747/30 (Tree and Hedge Root Protection Areas)
 - 1747/31 (Proposed Garages)
 - 2014/104/7/ Rev B (Kerbed Refuge for Footpath Exit to Main Road)
 - 2014/104/8/ (Widening on Bend to Allow Cars to Pass More Readily)
 - 2014/104/9/ (Track of DB 32 Cars in Bend at Possible Widening)

- 2014/104/12/ Rev A (Carriageway Improvements in Vicinity of Site Access)
- 5) The following information shall be submitted concurrently with the submission of the reserved matter and approved in writing by the local planning authority, before development commences:
- The means of enclosure of site;
 - The levels of the site; and
 - The finished floor levels.

Development shall be carried out in accordance with the approved details.

- 6) No development shall commence until details of all external materials, including hard surfacing, have been submitted to and approved in writing by the local planning authority. Development shall be undertaken in accordance with the approved details.
- 7) No windows or doors shall be installed on any dwelling until detailed plans and sections at a scale of 1:20 have been submitted to and approved in writing by the local planning authority. Development shall be undertaken in accordance with the approved details.
- 8) No development shall take place until the highway and pedestrian improvements shown on Drawings 2014/104/7/ Rev B, 2014/104/8/ and 2014/104/12/ Rev A have been implemented in accordance with engineering details to be submitted to and approved in writing by the local planning authority.
- 9) No development shall take place until full engineering details of the access onto Chapel Lane, internal access road layout and provision of visibility splays have been submitted to and approved in writing by the local planning authority. The development hereby permitted shall not be occupied until the access from Chapel Lane, internal road layout and visibility splays have been implemented in accordance with the approved details.
- 10) No development shall take place until a Construction Traffic and Site Management Plan has been submitted to and approved in writing by the local planning authority. Development shall be undertaken in accordance with the approved details.
- 11) No development shall take place until full drainage details have been submitted to and approved in writing by the local planning authority. Development shall be undertaken in accordance with the approved details before the dwellings are first occupied.
- 12) Development shall be carried out strictly in accordance with the Phase 2 Environmental Survey by Greenscape Environmental Ltd, dated June 2015.
- 13) Prior to the erection of any external lighting on the site an external 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'.

- 14) Prior to the first occupation of the dwellings, details of five woodcrete bat boxes suitable for nursery or summer roosting for small crevice dwelling bat species shall be submitted to and approved in writing by the local planning authority. All boxes must be at an appropriate height above the ground with a clear flight path and thereafter be permanently retained. The approved details shall be implemented in full prior to the first occupation of the dwellings.
- 15) Prior to the first occupation of the dwellings, details of five woodcrete artificial nests suitable for small birds such as robin, blackbird, tit species, sparrow and swallow shall be submitted to and approved in writing by the local planning authority. The approved details shall be implemented in full prior to the first occupation of the dwellings.

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Appeal Decision

Hearing held on 7 July 2015

Site visit made on 7 July 2015

by Tom Cannon BA DIP TP MRTPI

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

Decision date: 17 August 2015

Appeal Ref: APP/L3245/W/15/3006013

Bridleway Caravan Park, Henlle Lane, Gobowen, Oswestry SY10 7AX

- 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 R and J Roberts against the decision of Shropshire Council.
 - The application Ref 14/02529/FUL, 6 June 2014, was refused by notice dated 2 October 2014.
 - The development is described on the application forms as "The siting of chalet caravan to provide reception desk, office and warden's accommodation."
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Decision

1. The appeal is dismissed.

Procedural Matters

2. The description of development set out in the application forms relates to the siting of a chalet caravan to provide a reception desk, office and warden's accommodation. Although the appellants' suggest they would be willing to site a mobile home or large touring caravan, for a temporary period for warden's accommodation only, no amendments were formally made to the application prior to its determination by the Council. However, at the Hearing Mr and Mrs Roberts confirmed that, if the permanent stationing of a chalet caravan was not accepted, then they would be prepared to accept a 2 or 3 year temporary permission to provide accommodation by a site warden for 10 months of the year.
3. The Council confirmed at the Hearing that the examination into the emerging Site Allocations and Management of Development (SAMDev) has taken place, and they are currently consulting on the examining Inspector's main modifications to the plan. It is anticipated that the SAMDev will be adopted in late September or October 2015.
4. I understand that Policy MD11 of the SAMDev, referred to in the Council's case is not subject to modification. It states that tourism, leisure and recreation development proposals that require a countryside location will be permitted, where amongst other things, they meet the requirements of Policies CS5 and CS16 of the Shropshire Local Development Framework Core Strategy 2011 (CS) and national guidance. Given its stage of preparation, lack of unresolved objections and consistency with one of the objectives of the National Planning Policy Framework (the Framework) to support a prosperous rural economy, Policy MD11 is clearly a material consideration in the determination of this case.

Background

5. Bridleway Caravan Park comprises of a roughly triangular parcel of land situated within the open countryside, immediately to the east of the A5. The land, which extends to approximately 1.6 acres in size, is accessed off Henlle Lane, which links the appeal site to the B5070 to the north, and the village of Gobowen to the south.
6. The site has operated as a caravan park since 2010. Originally it provided a certified site for five caravans. However planning permission was subsequently granted to increase the number of parking bays, laying of hardstanding and internal access road, and construction of a toilet/shower block and office. Currently, the appeal site provides a total of 12 touring caravan plots available throughout the year, with pitch fees set at £15 per caravan. I observed at my site visit that the existing on-site office, despite its modest size provides an area where guests can be booked in and paper work completed, together with a small kitchenette and washing facilities.
7. There are also two modest parcels of land at the southern and northern ends of the site which are set aside for tents. Although these areas could potentially accommodate around 25 to 30 camping pitches, the appellant has confirmed that for health and safety reasons they do not accept tents on site.
8. I understand that the appeal development would result in the loss of at least one of the existing touring pitches. To off-set the impact on the existing business, and retain 12 caravan plots on site, Mr Roberts confirmed that part of the camping area would be utilised for replacement caravan pitch(es). However, this does not form part of the development which is before me. Thus, the appeal proposal, if permitted would reduce the total number of available touring pitches to 11, albeit for a temporary period.
9. The proposed caravan would be occupied by a member of the appellants' family who would act as a warden providing an on-site presence, 24 hours a day for customers. I understand that Mr and Mrs Roberts, their sons and daughter would occupy the caravan on a rota basis, but would continue to reside at their existing properties elsewhere when they are off duty. It would not therefore be occupied as a sole or main place of residence. Nevertheless, it is suggested by the appellants' that the warden's accommodation, which would ideally be in the form of a permanent residential presence on site is necessary to satisfy the functional requirements of the business.

Main Issue

10. 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 the proposal would represent sustainable development in the open countryside so as to accord with national and local plan policy.

Reasons

Policy context

11. Policy CS16 of the CS seeks to deliver sustainable tourism, culture and leisure development which enhances the local economy, benefits local communities and visitors, and is sensitive to Shropshire's intrinsic natural and built environment qualities. New and extended tourism development should,

amongst other things be appropriate to its location, and enhance and protect the existing tourism offer in Shropshire. It also requires that development accords with Policy CS5 of the CS.

12. Policy CS5 of the CS states that new development will be strictly controlled in the countryside in accordance with national policy. Development proposals which maintain and enhance countryside vitality will be permitted where they improve the sustainability of local communities by bringing local economic and community benefits. This particularly relates to sustainable rural tourism, leisure and recreational proposals which require a countryside location. These policies, together with Strategic Objective 7 of the CS are closely aligned with paragraph 28, and one of the core planning principles of the Framework, to promote sustainable rural tourism and leisure developments that benefit businesses in rural areas, communities and visitors, and to recognise the intrinsic character and beauty of the countryside.
13. It is common ground between the parties that the appeal development would preserve the character and appearance of the countryside. Given the mature planting along the boundaries of the site, and its proposed position adjacent to the existing amenity building I see no reason to disagree with the above stance.
14. The overarching aim of Policies CS15 and CS5 is to deliver sustainable tourism. In other words, to represent sustainable tourism development a proposal must be necessary to ensure the sustainable operation and functioning of the business. To my mind the provision of warden's accommodation for occupation by several family members would have a similar purpose as a dwelling housing an essential rural worker, in that the occupiers would meet a functional need for a worker to be present on-site 24 hours a day. In this respect Policy CS5 of the CS does provide, amongst other things, for dwellings to house other essential countryside workers to meet a local need. This is consistent with one of the special circumstances listed in paragraph 55 of the Framework which permits isolated homes in the countryside if there is an essential need for a rural worker to live permanently at or near their place of work.
15. Further advice on other occupational dwellings in rural areas is provided in the Shropshire Local Development Framework 'Type and Affordability of Housing Supplementary Planning Document' 2012 (SPD) which post-dates the Framework. It advises that applicants will be required to demonstrate that a dwelling at the business is essential by showing a functional need for the occupier to be present at the business for the majority of the time ("time" being 24 hours a day, 7 days a week), with applications for temporary dwellings supported where a business case is shown. This seems a reasonable approach to me of defining an essential need.

Essential need

16. Mr and Mrs Roberts currently reside in Weston Rhyn, which depending on the route taken is between 3.2 and 5 kilometres from Bridleway Caravan Park. The appellants' have confirmed that they make regular return trips to and from the appeal site on a daily basis in connection with the operation of the caravan park, a journey of between 10 and 15 minutes.
17. I recognise that the provision of on-site warden's accommodation would improve the efficiency of the enterprise by reducing the requirement for Mr and

Mrs Roberts to make repeat trips to the site. This can include frequent daily visits, particularly in the busier summer period, to welcome guests, respond to customer queries and the general maintenance of the caravan park. A continuous presence at the site may also provide guests with the reassurance that they are not leaving often expensive caravans unattended when they are away from the park. I understand that several customers have raised concerns in this regard, with the appellants' suggesting that this has impacted on repeat bookings. I am also mindful that the site may have lost business from passing trade in the absence of a permanent presence on the land, given its location alongside the A5. Therefore, a permanent on-site presence could provide some benefits to visitors. As would a larger office and reception area, if occupancy rates at the caravan park are high, and the existing provision is unable to cope with demand.

18. Only limited evidence of bookings and occupancy rates at the caravan park have been provided in this appeal. The appellant suggests that more than 7 caravans frequently occupy the site, with 36 people counted at the park on one occasion. However, only extracts from the booking diary have been supplied covering 1 month periods in each of the last 3 years. This evidence demonstrates that over this period, only on three occasions' since 2012 have 7 or more caravans have occupied the site. For the remainder of the sample months, which relate to August, April and July respectively, very few bookings appear to have been made. This suggests that even in peak periods, occupancy rates were low, with only a limited number of customers on the site at any one time.
19. The appellants' provided oral evidence at the Hearing regarding recent bookings at the caravan park. For the period from April to the end of July 2015, the business received bookings totalling £3000. I understand this represents an increase over the equivalent period in 2014. Taking a pitch fee of £15 per night this amounts to around 200 nightly bookings, or an average of 66 overnight stays each month. This indicates that even during this period which includes several bank holiday weekends, the 12 pitch site is still not operating anywhere near its full capacity.
20. Mr and Mrs Roberts accepted at the Hearing that, whilst they do receive bookings outside the busier summer period, particularly from visitors to the nearby hospital, occupancy rates were significantly lower for the remainder of the year. Therefore, given the scale of the existing enterprise and number of bookings taken, it is clear from the evidence put before me in this appeal that there is no functional requirement for either a permanent, or temporary on-site presence for 10 months of the year in connection with the existing business. Nor have any detailed forecasted projections been supplied of the potential uplift in business generated by the provision of warden's accommodation at the caravan park. Such tasks are therefore capable of being undertaken by a non-resident worker(s). Furthermore, it has not been adequately demonstrated that the number of visitors to the site justifies the provision of a larger new reception and office area.
21. I understand from the letter supplied by Mr and Mrs Roberts accountant that considerable investment has been made in the business. Nevertheless, the overheads associated with travelling to and from the site are impacting on the profitability of the business. It was also clearly evident from my site visit that the caravan park is well maintained with modern facilities. However, no

detailed financial accounts have been provided to demonstrate that the business is financially viable, or indicate how the warden's accommodation would affect the profitability of the enterprise. In combination with the limited information provided regarding occupancy rates, this provides insufficient evidence to indicate that a business need has been shown to justify temporary accommodation for a warden at the appeal site.

22. I am mindful that the potential vulnerability of the site is causing the appellants' considerable stress and worry. I also recognise that in the absence of a site warden health and safety regulations require that access is available to the caravan park at all times. In total, 4 incidences at the park, including the attempted theft of a caravan and a canoe have been reported to the Police between 2011 and 2014. The appellant is also concerned that the post box which receives mail for the business is particularly susceptible to theft and misuse. It is therefore suggested that a 24 hour presence on site would not only provide peace of mind for the appellants' but also increase the attractiveness of the caravan park for potential visitors.
23. The Council has indicated that CCTV could provide an alternative method of improving on site security. I recognise that an extensive security system maybe beyond the financial means of the business. Nevertheless, basic security lighting and CCTV cameras can be installed at relatively low cost and act as a deterrent for potential criminal activity. Moreover, the number of reported incidences on site is low, with no issues arising since July 2014. Therefore, any potential security benefits associated with the development does not in isolation justify the provision of on-site warden's accommodation at Bridleway Caravan Park.
24. For the above reasons, I conclude that the appellant has failed to demonstrate an essential need for an on-site residential presence in connection with the caravan park, either permanently or for 10 months in each calendar year. Thus, the development would conflict with Policies CS5 and CS15 of the CS, guidance in the SPD, emerging Policy MD11 of the SAMDev, and the provisions of the Framework.

Sustainable tourism

25. The appeal site is situated within close proximity of several visitor attractions including, Chirk Castle, Erddig Hall and the national canal system. Many customers also use Bridleway Caravan Park throughout the year in connection with visiting family and friends at the nearby hospital. The appellants' have confirmed that visitors to the site utilise local shops and facilities providing some, albeit limited benefits to the local economy. I am also mindful that there are a number of other forms of tourist accommodation in the general vicinity of the site which suggests it is a popular area with visitors. However, other than one letter supplied by a visitor to the site raising concerns about the lack of an on-site presence, I have not been provided with any tangible evidence to demonstrate why the provision of warden's accommodation would significantly increase bookings at the caravan park.
26. Therefore, given the modest scale of Bridleway Caravan Park and the potential limited increase in the number of customers who may be attracted to the site as a direct result of the provision of warden's accommodation, any potential benefits to the local economy or community are likely to be limited. Similarly,

any enhancements to countryside vitality and the sustainability of local communities would be modest.

Overall Conclusion

27. I therefore conclude that the proposed development, despite some modest benefits for visitors to the site, the local economy and community would not constitute sustainable tourism development as it has not been demonstrated that there is an essential need for a residential presence on site in connection with the existing business either on a permanent or temporary basis. Nor is it essential, given the scale of the business and occupancy rates that a larger reception and office space is currently required to support the demands of the enterprise. Consequently, the appeal proposal would not represent sustainable development in the open countryside so as to accord with national and local plan policy and thus would conflict with Policies CS5 and CS15 of the CS, guidance in the SPD, emerging Policy MD11 of the SAMDev and the Framework.

Other Matters

28. Reference was made at the Hearing to planning permission for a facilities building with managers flat at Condover Fishing Pools in connection with 15 touring caravan pitches. It is clear from the officer report that the justification for an on-site residential presence was based not only on the functional requirement of the touring caravan site but the authorised use of the land for fishing pools. Thus, although the fishing pools aspect of the business was only seasonal, and the appellants' have questioned the scope of conditions imposed under this permission, it clearly relates to a larger and more diverse enterprise. As such, it is not directly comparable to the appeal development.
29. The appellant has also referred to other touring caravan sites in the locality which have on site warden's accommodation. However, it also appears that these are much larger caravan parks and the functional demand for a permanent on site presence is therefore greater.
30. I agree with the appellants' that the wording of the Council's reason for refusal is vague. Nevertheless, the officer report and appeal statement clearly sets out why, in their view the development conflicts with both national and local planning policy. Further oral evidence was also provided by the Council at the Hearing in this regard. I am therefore satisfied that the Council has provided reasoned justification for refusing the original application. Nor have the suggested inaccuracies in the officer report affected my conclusions on this case.

Conclusions

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

T Cannon

INSPECTOR

APPEARANCES

FOR THE APPELLANT:

Mr Bennett	Agent
Mr & Mrs Roberts	Appellants'
Mr & Mrs Roberts	Appellants' son and daughter in law

FOR THE LOCAL PLANNING AUTHORITY:

Miss Melanie Durant	Planning Officer Shropshire Council
Mr Tim Rodgers	Area Planning Manager Shropshire Council

INTERESTED PARTIES

Mrs Celia Coombes	Local resident
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DOCUMENTS SUBMITTED AT THE HEARING

1. Shropshire Local Development Framework 'Type and Affordability of Housing Supplementary Planning Document' 2012 (SPD)
2. Emerging Policy MD11 of the Shropshire Council 'Site Allocations and Management of Development' 2014 (SAMDev)
3. Email correspondence between the main parties
4. Plan identifying the appeal site and other holiday accommodation and local facilities
5. Plan demonstrating potential routes between the appellants' property in Weston Rhyn and the appeal site
5. Planning application 14/00155/FUL on land adjacent to Condover Fishing pools, Condover Park, Condover, Shrewsbury

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