



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

Date: 18 May 2018

**Committee:**  
**North Planning Committee**

**Date:** Tuesday, 29 May 2018

**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**

Roy Aldcroft  
Joyce Barrow  
Gerald Dakin  
Pauline Dee  
Rob Gittins  
Roger Hughes  
Vince Hunt  
Mark Jones  
Paul Milner  
Peggy Mullock  
Paul Wynn )

**Substitute Members of the Committee**

Nicholas Bardsley  
Karen Calder  
Steve Davenport  
Ann Hartley  
Simon Jones  
Matt Lee  
David Minnery  
John Price  
Brian Williams

Your Committee Officer is:

**Emily Marshall** Committee Officer

Tel: 01743 257717

Email: [emily.marshall@shropshire.gov.uk](mailto:emily.marshall@shropshire.gov.uk)

# AGENDA

## 1 Election of Chairman

To elect a Chairman for the ensuing year.

## 2 Apologies for Absence

To receive apologies for absence.

## 3 Appointment of Vice-Chairman

To appoint a Vice-Chairman for the ensuing year.

## 4 Minutes (Pages 1 - 4)

To confirm the Minutes of the meeting of the North Planning Committee held on 3<sup>rd</sup> April 2018, attached, marked 4.

Contact: Shelley Davies on 01743 257718.

## 5 Public Question Time

To receive any public questions or petitions from the public, notice of which has been given in accordance with Procedure Rule 14. The deadline for this meeting is 2.00 p.m. on Friday, 25<sup>th</sup> May 2018.

## 6 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.

## 7 Vantage Farm, Bletchley Road, Bletchley, Market Drayton, Shropshire, TF9 3RZ (17/02123/FUL) (Pages 5 - 22)

Application under Section 73a of the Town and Country Planning Act for the erection of a new agricultural building including the installation of a solid biomass combined heat and power (CHP) system

## 8 Solar Farm, South West Of Hadley Farm, Wrexham Road, Whitchurch, Shropshire (18/00693/VAR) (Pages 23 - 30)

Variation of Condition no 2 (approved drawings) and 9 (external colour of the buildings) attached to planning permission ref 14/02914/FUL to regularise the change in the colour of two inverters

## 9 Land Off Roden Grove, Roden Grove, Wem, Shropshire (18/00846/REM) (Pages 31 - 50)

Reserved matters (appearance, landscaping, layout and scale) pursuant to 14/02851/OUT for the erection of 25 dwellings

## 10 Appeals and Appeal Decisions (Pages 51 - 74)

## **11 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 26<sup>th</sup> June 2018 in the Shrewsbury Room, Shirehall, Shrewsbury.

**This page is intentionally left blank**



## Committee and Date

North Planning Committee

29<sup>th</sup> May 2018

## **NORTH PLANNING COMMITTEE**

### **Minutes of the meeting held on 3 April 2018**

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

**2.00 - 3.03 pm**

**Responsible Officer:** Shelley Davies

Email: shelley.davies@shropshire.gov.uk Tel: 01743 257718

### **Present**

Councillor Paul Wynn (Chairman)

Councillors Roy Aldcroft, Gerald Dakin, Pauline Dee, Rob Gittins, Roger Hughes, Vince Hunt (Vice Chairman), Mark Jones, Paul Milner and Steve Davenport (substitute for Joyce Barrow)

### **91 Apologies for Absence**

Apologies for absence were received from Councillors Joyce Barrow (substitute: Steve Davenport) and Peggy Mullock.

### **92 Minutes**

#### **RESOLVED:**

That the Minutes of the meeting of the North Planning Committee held on 6<sup>th</sup> March 2018 be approved as a correct record and signed by the Chairman.

### **93 Public Question Time**

There were no public questions or petitions received.

### **94 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.

### **95 Barns At Edgeley Farm Edgeley Bank Whitchurch Shropshire (16/04925/FUL)**

The Planning and Enforcement Officer introduced the application for the conversion of outbuildings to form 4 dwellings to include some demolition and reconstruction; associated garaging and drainage and confirmed that the Committee had undertaken

a site visit that morning to assess the impact of the proposed development on neighbouring properties and the surrounding area.

The Planning and Enforcement Officer explained that the applicant had been requested to submit a Heritage Impact Assessment to enable Officers to fully assess and determine the application however this had not been received.

In accordance with the Local Protocol for Councillors and Officers dealing with Regulatory Matters (Part 5, Paragraph 15.1) Councillor Gerald Dakin, as local ward Councillor, made a statement and then moved to the back of the room, took no part in the debate and did not vote on this item. During their statement, the following points were raised:

- He considered the site visit today to be very beneficial;
- The proposal would enhance the site and the surrounding area; and
- The proposal would return the building to how it previously looked.

Members agreed that a Heritage Impact Assessment was required before they could make a balanced view in relation to impact on the historic character of the surrounding area and its setting. Additionally concern was raised by some Members in relation to the access which was along a single track road.

Having considered the submitted plans and listened to the comments made by the local ward Councillor, the majority of Members expressed the view that determination of the application be deferred to allow the applicant the opportunity to submit a Heritage Impact Assessment and further negotiate with Officers in relation to what was considered acceptable. It was added that deferment of the application would also give Officers the opportunity to address the concerns raised in relation to the access.

**RESOLVED:**

That determination of the application be deferred to allow the applicant the opportunity to submit a Heritage Impact Assessment and further negotiate with Officers.

**96 Land to the north of Shrewsbury Road Oswestry Shropshire (16/02594/OUT)**

The Principal Planning Officer introduced the outline application for residential development of up to 600 units with associated infrastructure including areas of public open space with all matters reserved except access. He confirmed that the Committee had undertaken a site visit that morning to assess the impact of the proposed development on neighbouring properties and the surrounding area and noted that the report referred to Councillor Joyce Barrow as the Local Member but this should read Councillors Clare Aspinall and John Price.

The Principal Planning Officer drew Members' attention to the information contained within the Schedule of Additional letters which advised that if Members were minded to approve the application wording of Conditions 1, 2 and 3 be varied as outlined in

the Schedule of Additional Letters. Additionally a verbal update was read out by the Principal Planning Officer from the Oswestry and District Civic Society welcoming conditions 15 and 16 in relation to electric car charging points and a detailed travel plan.

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

- She did not object to the application in principle and welcomed the additional housing;
- She had concerns in relation to the additional traffic using Middleton Road which was a Community Concern; and
- She felt that traffic calming measures were required prior to any development taking place.

Mr Nick Scott, Agent on behalf of the applicant spoke in response to the traffic concerns raised by the local ward Councillor.

In response to questions from Members, the Principal Planning Officer confirmed that traffic calming measures on Middleton Road would be considered and residents would be encouraged to use the spine road; the CIL contribution would be phased over 7 years in line with the suggested variation to conditions 1, 2 and 3; and the target rate for affordable housing in Oswestry was 10%.

Having considered the submitted plans and listened to the comments made by all of the speakers, Members 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 s106 legal agreement in relation to affordable housing provision and open space provision and management; and
- The conditions as set out in Appendix 1, with the wording of conditions 1, 2 & 3 to be varied as detailed on the Schedule of Additional Letters and any amendments considered necessary to these conditions by the Planning Services Manager.

**97 6 Rosehill Drive Whittington SY11 4BE (18/00836/FUL)**

The Principal Planning Officer introduced the application for the erection of a dormer to the side elevation and enlargement of the existing dormer to the side elevation.

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

**RESOLVED:**

That planning permission be granted subject to the conditions set out in Appendix 1 of the Planning Officer's report.

**98 Appeals and Appeal Decisions**

**RESOLVED:**

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

**99 Date of the Next Meeting**

It was noted that the next meeting of the North Planning Committee would be held at 2.00 p.m. on Tuesday 1<sup>st</sup> May 2018 in the Shrewsbury/Oswestry Room, Shirehall, Shrewsbury.

Signed ..... (Chairman)

Date: .....





Committee and Date  
 North Planning Committee  
 29<sup>th</sup> May 2018

Item  
**7**  
 Public

## Development Management Report

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

### Summary of Application

<b>Application Number:</b> 17/02123/FUL	<b>Parish:</b>	Moreton Say
<b>Proposal:</b> Application under Section 73a of the Town and Country Planning Act for the erection of a new agricultural building including the installation of a solid biomass combined heat and power (CHP) system		
<b>Site Address:</b> Vantage Farm Bletchley Road Bletchley Market Drayton Shropshire		
<b>Applicant:</b> Harrison Farms		
<b>Case Officer:</b> Kelvin Hall	<b>email:</b> <a href="mailto:planningdmc@shropshire.gov.uk">planningdmc@shropshire.gov.uk</a>	

**Grid Ref:** 362351 - 333733



© Crown Copyright. All rights reserved. Shropshire Council 100049049. 2016 For reference purposes only. No further copies may be made.

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

## REPORT

### 1.0 THE PROPOSAL

1.1 This application seeks planning permission for the erection of a combined heat and power (CHP) facility at Vantage Farm, Bletchley. The proposed building is L-shaped with a maximum length of 37.2 metres and maximum width of 30.7 metres. It would have a pitched roof with an eaves height of 4.3 metres to the south-east elevation and 7.4 metres to the north-west elevation. The ridge height would be 8.5 metres. There would be two flues/vents. One would be 11 metres high; the other 9.6 metres high. The building would be clad in green coloured metal sheeting. The building would contain two poultry manure storage bays and a separate plant room to house the main boiler.

1.2 The development was commenced in March 2017 and construction work is substantially complete although the plant is not operational. As such the application is largely retrospective in nature.

### 2.0 SITE LOCATION/DESCRIPTION

2.1 The site is located at Vantage Farm, to the north-east of the settlement of Bletchley and approximately 2.5km to the west of Market Drayton. The building is on the site of recently demolished farm buildings. The poultry unit is situated approximately 60 metres to the north-east. There is a stonemasons yard to the south and an existing livestock building to the north-west. Land to the east is in agricultural use. The nearest residential dwelling is Trevor House, the applicant's residence, approximately 30 metres to the north-west. There are further dwellings in the vicinity to the south-west, including properties at Royal Oak Farm approximately 55 metres away, Westwood House approximately 63 metres away, and The Old Smithy approximately 68 metres away. Royal Oak Farmhouse is a Grade II listed building.

2.2 Access to the site would be via the existing private road to the poultry buildings 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 the Principal Planning Officer in consultation with the Committee Chairman and Vice-Chairman has advised that it is appropriate for the application to be determined by Planning Committee.

### 4.0 COMMUNITY REPRESENTATIONS

#### 4.1 Consultee Comments

##### 4.1.1 Moreton Say Parish Council Objects.

Although Moreton Say Parish supports the general principle of renewable energy and the initiative that this applicant is promoting, it is objecting to this planning application on the grounds that the location will have a detrimental impact on residential amenities.

The Parish Council is concerned that this application is contrary to CS6: 'Contributes to the health and wellbeing of communities, including safeguarding residential and local

amenity and the achievement of local standards for the provision and quality of open space, sport and recreational facilities.....is designed to a high quality, consistent with national good practice standards, including appropriate landscaping and car parking provision and taking account of site characteristics such as land stability and ground contamination;' The Council does not believe that this will protect residential amenity of the neighbouring properties, those related to the farm included i.e. the nearby 'sensitive receptors, will not contribute to their health and wellbeing.

The Parish Council has made this decision on the information that is currently available but it notes that in the Environmental Agency's letter dated 19th October 2017 it stated 'once the permitting team have reviewed the detail, and associated assessments, we will provide further comment' . The Parish Council would welcome the Environmental Agency's further comments, which do not appear to have been received yet, and would undoubtedly be pertinent to this application.

#### 4.1.2 **Environment Agency** No objections.

The applicant has now been granted a variation to their Environmental Permit for the operation.

Environmental Permitting Regulations (2010): As previously stated, under the Environmental Permitting Regulations, we regulate Part A (1) activities and installations as defined by Schedule 1. The relevant part of Schedule 1 is:

*Section 1.1 Combustion Activities: burning any fuel in an appliance with a rated thermal input of 50MW or more and burning any fuel manufactured from, or comprising, waste in an appliance with a rated thermal input of 3MW or more but less than 50 MW. An Environmental Permit is required for such activities.*

For proposals where the thermal input is less than 3MW for the burning of waste wood then this aspect would normally (providing certain requirements are met) fall below the threshold for burning waste, under the Environmental Permitting (England and Wales) Regulations (EPR) 2010.

In this instance, due to the Permit requirements for the existing poultry units the biomass boiler would be regulated under the Permit as a source of emission. Vantage Farm currently operates under an EP for its associated poultry operations. Our Permitting team have reviewed the application and a Permit Variation was issued on the 22 February 2018 (Ref: EPR/AP3331CA).

In previous comments, the EA noted that they had received complaints in the past regarding odour at the site in relation to the associated poultry operations, and that some of those had been substantiated. The EA advised that the Environmental Permit, including the Variation, regulates and control matters such as the following:

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

The EA previously requested further information regarding air quality, and in particular an assessment of emissions and dispersion to inform details on the scale and nature of

the stack in view of the proximity of sensitive receptors. Following the receipt of further information from the applicant the EA were re-consulted and provided the updated response above.

4.1.3 **Natural England** No comments to make on this application.

4.1.4 **SC Ecology** Recommends conditions.

The proposal is for the erection of a new agricultural building and the installation of a solid biomass system. Poultry litter from the existing 6 poultry units will be utilised as fuel and this will produce electricity and heat to be used by the poultry units. The system will produce renewable energy, will reduce poultry litter export movements from the site, and will reduce the spreading of manure on the surrounding farmland.

The AS Modelling & Data Ltd report (September 2017) has identified one Local Wildlife Site (LWS) within 2 km of Vantage Farm, namely Moreton Wood LWS, and one Ramsar designated site within 10 km, namely Brown Moss, which is designated as a part of Midland Meres & Mosses Phase 1.

SC Ecology is using Natural Resource Wales Screening distances to assess impacts on designated sites. Therefore SC Ecology has not identified any European Designated Sites, or National Designated Sites within 5km and no further assessment will be required on these wildlife sites. Natural England has confirmed no objection.

The AS Modelling & Data Ltd report concludes that at two of the receptors located at Moreton Wood LWS there is a small exceedance of 1% of the assumed Critical Level of 30.0 µg/m<sup>3</sup> and therefore the proposal may or may not be considered acceptable.

SC Ecology considers that the proposal will not have a significant impact on Shropshire's Natural Assets. SC Ecology would recommend that a pre-commencement condition is added to the decision notice, and informatives are added (see Appendix 1).

4.1.5 **SC Public Protection** No objections.

Having carried out a site visit of the proposed installation and reviewed all assessments relating to odour, air quality and noise I have the following comment.

The odour assessment provides details of the mitigation on site to prevent odour impacting on nearby receptors. The main odour source is the movement of poultry manure into the shed and air escape from the sheds. Movement of poultry litter to the shed will occur roughly every 7 weeks. The poultry manure will be covered as it is moved from the poultry units to the feedstock shed of the biomass unit. It will then be pushed/walked out of the vehicle rather than tipped which is expected to reduce odour release. The rapid closing air tight doors will then be closed and not reopened until the next delivery of feedstock is required. The air in the feedstock shed will be under negative pressure and will enter the combustion process which is expected to remove any odorous components. The exhaust air out of the combustion process is not anticipated to have any odour due to scrubbing mechanisms adopted and the temperature that has been reached in the system. As a result I have no objection in relation to odour. Controls shall be afforded and regulated under the Environmental

Permit issued and regulated by the Environment Agency (EA). In addition it is noted that a potential betterment will be achieved in respect of odour as no manure will be moved off site past residential properties or stored in fields where it could impact on people nearby. It should be noted that the biomass unit has the capacity to use all of the manure produced by the poultry operations on site.

The noise assessment has been reviewed in detail. The findings are accepted following a site visit where the extent of background noise in the area was noted and the noise from fans was considered. The buildings are well insulated in respect of noise and it is not anticipated that any nearby residential properties will be affected significantly by the proposed development.

An air quality assessment has been produced. This has been reviewed in detail and is considered to be generally acceptable. Previous concerns were primarily in relation to potential impacts from PM10s. As PM10s are produced at poultry units and the poultry units in question also have existing biomass boilers installed the addition of another source of PM10s required thorough consideration. Having reviewed the information and visited the site to find out more about how PM10s will be captured I am satisfied that the in combination impact of PM10 release from the site as a whole is not going to exceed legislative levels requiring an Air Quality Management Area to be declared. The PM10 contribution of the unit is very small due to the mitigation contained within the system. In addition there will be a reduction of PM10s from the existing biomass units (predicted 33% reduction). Other pollutants of concern have also been modelled. Having found the model to be satisfactory including meteorological data used, input parameters used and the type of model (a computerised model taking into consideration topography and buildings close to the proposed unit) I do not consider the proposed development will create any significant impact on the health and wellbeing of those in the general vicinity.

In conclusion I withdraw any previous objection made in relation to odour, noise and air quality.

[The Public Protection team previously raised objections to the proposal on the grounds that it would be likely to result in adverse impacts due to noise, odour and air pollutants. Following the submission of additional technical reports, the team were re-consulted and provided the updated response above following a site visit].

- 4.1.6 **SC Drainage** A sustainable drainage scheme for the disposal of surface water from the development should be designed and constructed in accordance with the Councils Surface Water Management: Interim Guidance for Developers document. It is available on the councils website at:

[www.shropshire.gov.uk/drainage-and-flooding/local-flood-risk-management-strategy/](http://www.shropshire.gov.uk/drainage-and-flooding/local-flood-risk-management-strategy/)

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

- 4.1.7 **SC Highways** No objection.

The proposed buildings are associated with the development of the six poultry units approved on Appeal in relation to planning application 12/01367/EIA. The poultry units take access from the road to Moreton Say to the south-east of the current site and conditions of the Appeal decision secured the site access along with Highway improvements at the A41 junction and on the north-western approach from the dual-carriageway.

The building proposed is an agricultural building for the installation of a solid biomass combined heat and power (CHP) system and storage of manure generated from the poultry units for use as fuel. The heat and electricity produced by the biomass system is to be utilised by the poultry units. A considerably reduced weight/volume ash fertiliser remains after the burning process for subsequent removal and use.

The submitted Design & Access Statement clearly states that the vehicle movements for the transportation of the manure between the poultry units and biomass buildings along with the final transportation of the resulting ash off-site will not involve the use of Bletchley Road. All vehicle movements are to be accommodated within the private landholding and via the Moreton Say road to the south-east, to and from the A41.

It is noted from a site visit that the development site and buildings can be accessed from Bletchley Road via an existing vehicular access. The application does not indicate whether or not this access is to be closed, however, on the basis of the stated operation of the development and proximity of the fuel material for the biomass unit, the use of Bletchley Road does not appear to be likely, except in relation to the use of the retained buildings.

4.1.8 **Shropshire Fire Service** Advice provided (see informatives).

#### 4.2 **Public comments**

4.2.1 The application has been advertised by site notice. In addition, 5 properties in the local area have been individually notified. Eight objections have been received. The full objections can be viewed on the online planning register. A summary of the objections is below:

- adverse smells, air quality, noise and light pollution from existing poultry operation, despite assurances of good management practices, causing adverse residential amenity
- many complaints and protests
- proposed building will be closer to Bletchley so will result in more emissions and poorer air quality
- air quality report is based on computer modelling; modelling for poultry application has proven to be wildly inaccurate in underestimating impacts
- air quality report should look into cumulative effects of new boiler and existing biomass boilers and chicken units
- area should be declared an Air Quality Management Area to closely monitor the site to ascertain actual emissions and impact
- biomass combustion emits significant quantities of health damaging pollutants
- concern over emissions of nitrogen oxides, sulphur dioxide, particulate matter and carbon monoxide
- computer modelling should take into account monitoring, climate change which can affect air quality in the future

- impact from smoke
- impact on ecological sites
- concern over plant maintenance and procedures in event of systems failure
- impact on personal health due to existing chicken units, considered by GP to be caused by environmental factors
- impact on quality of life
- there is no safe level for particulates impact on health
- query the purported benefit of replacing a few cattle in open sheds with movement, unloading and incineration of thousands of tonnes of faecal matter and litter

## 5.0 THE MAIN ISSUES

- Principle of development
- Siting, scale and design
- Historic environment considerations
- Highways considerations
- Ecological considerations
- Residential, local amenity and pollution considerations

## 6.0 OFFICER APPRAISAL

### 6.1 Principle of development

- 6.1.1 Planning permission for a poultry rearing development at Vantage Farm was granted on appeal in 2014. The development includes six poultry sheds, 16 feed bins, a biomass store, a boiler room and ancillary buildings and infrastructure. The units produce approximately 3200 tonnes of poultry litter per annum. At present, at the end of each bird rearing cycle (of which there are 7.6 per annum) this poultry litter is collected from the units and taken off site for storage and spreading to surrounding farmland. The current proposal would enable all of this poultry litter to be utilised as a fuel within the CHP plant. This process would generate electricity and heat.
- 6.1.2 The heat would be used to maintain the poultry houses at the correct temperature for the birds. At present the houses are heated by biomass boilers with LPG used when required. The proposal would therefore utilise a locally-arising source of renewable energy and result in some reduction in non-renewable gas, thereby reducing carbon emissions.
- 6.1.3 The National Planning Policy Framework supports the transition to a low carbon future as one of its core planning policies, and states that local planning authorities should recognise that even small-scale projects provide a valuable contribution to cutting greenhouse gases. The Shropshire Core Strategy provides similar support by stating that the generation of energy from renewable sources should be promoted (Strategic Objective 9), and that renewable energy generation is improved where possible (Policy CS6). As such the proposal is supported in principle by national and local planning policies.
- 6.1.4 Core Strategy policy CS5 provides support for agricultural related development in the countryside which maintain and enhance countryside vitality and character and bring local economic and community benefits. The proposal would enable agricultural wastes that arise at the poultry farm to be managed in a beneficial way, and improve the efficiency and sustainability of the business. It is considered that the proposal

represents an appropriate development of the existing poultry rearing enterprise, and can be supported in principle under policy CS5.

## **6.2 Siting, scale and design**

6.2.1 Core Strategy policy CS6 seeks to ensure that development is appropriate in scale and design taking into account local context and character, having regard to landscape character assessments and ecological strategies where appropriate. Policy CS17 also seeks to protect and enhance the diversity, high quality and local character of Shropshire's natural environment and to ensure no adverse impacts upon visual amenity, heritage and ecological assets. SAMDev Plan policy MD7b states that applications for agricultural development should be of a size/scale which is consistent with its required agricultural purpose, and where possible are sited so that it is functionally and physically closely related to existing farm buildings.

6.2.2 The site was once occupied by farm buildings and therefore the proposed building can be seen as a replacement to these. The building would be conveniently located in relation to the source of the poultry manure, thereby requiring minimal transport distance. It is considered that the building is of an appropriate design and that the scale is acceptable in relation to the size of plant and litter storage needs.

6.2.3 The justification for the choice of site in relation to the needs of the farm are accepted. The impacts of the proposal in relation to its proximity to dwellings is discussed below.

## **6.3 Historic environment considerations**

6.3.1 Core Strategy policy CS17 requires that developments protect and enhance the diversity, high quality and local character of Shropshire's historic environment. SAMDev Plan policy MD13 requires that heritage assets are conserved, sympathetically enhanced and restored by ensuring that the social or economic benefits of a development can be demonstrated to clearly outweigh any adverse effects on the significance of a heritage asset, or its setting. Section 66 of the Planning (Listed Buildings and Conservation Areas) Act 1990 requires that 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.

6.3.2 There is a Grade II listed building situated approximately 76 metres to the south-west of the site. Intervening buildings and substantial hedgerow would obscure views of the proposed building from the listed building and it is not considered that the proposal would adversely affect its setting. The proposal is therefore acceptable in relation to the policies and requirements set out in section 6.3.1 above.

## **6.4 Highways considerations**

6.4.1 The litter burning process would produce an ash which would be used as a fertiliser for the farmland. This would be approximately 10% of the weight of the poultry litter input, and as such there would be a 90% reduction in vehicle movements off the site for the export of poultry litter. Poultry manure would be delivered to the plant directly from the poultry units and would not need to use the public highway. Therefore overall the proposal would result in a reduction in vehicle movements using the public highway and does not raise any particular highway safety issues.

## **6.5 Ecological considerations**



- 6.5.1 Core Strategy policy CS17 seeks to protect and enhance the diversity, high quality and local character of Shropshire's natural environment and to ensure no adverse impacts upon visual amenity, heritage and ecological assets. SAMDev Plan policies MD2 and MD12 require that developments enhance, incorporate or recreate natural assets. Para. 118 of the NPPF states that local planning authorities should aim to conserve and enhance biodiversity.
- 6.5.2 The application is accompanied by a dispersion modelling report based upon an assessment of the likely emissions from the proposed plant. This includes an assessment of the emissions from the plant on designated ecological sites in the wider area. Based upon the findings of this assessment the Council's ecology team advise that the proposal would not have a significant impact on natural assets and has raised no objections to the proposal. There would be some impact however, due to air emissions, and mitigation can be secured through landscape planting. It is therefore considered that it would be appropriate to require some landscaping at the site. Subject to this it is considered that the proposal would not raise significant ecological issues and is acceptable in relation to policies CS17, MD2 and MD12.
- 6.6 Residential, local amenity and pollution considerations**
- 6.6.1 Core Strategy policy CS6 requires that developments safeguard residential and local amenity. SAMDev Plan policy MD7b states that planning applications for agricultural development will be permitted where it can be demonstrated that there would be no unacceptable impacts on existing residential amenity. One of the core planning principles of the NPPF is that planning should always seek a good standard of amenity for all existing and future occupants of land and buildings.
- 6.6.2 The proposed CHP plant is located in proximity of a number of dwellings and has the potential to impact on living conditions through noise, odour and air emissions. A number of objections have been received from residents in the local area citing these matters as concerns, and the relevant considerations are discussed below. In addition in relation to the Parish Council's comments it should be noted that the updated comments of the Environment Agency have now been received which includes confirmation that they have no objections to the proposal.
- 6.6.3 Air quality impacts: Following advice from consultees, a detailed air quality assessment undertaken by consultants has been submitted. This considers the baseline situation, and assesses the impact of the CHP on local air quality in terms of various pollutants, specifically nitrogen oxides, particulate matter (PM<sub>10</sub>), carbon monoxide and sulphur dioxide. It also considers the potential for 'in combination' effects of emissions from both the CHP plant and the existing biomass boilers. Twenty six of the closest residential receptors were used for modelling purposes.
- 6.6.4 The report states that the CHP process is monitored in real-time to ensure compliance with regulations of the Animal and Plant Health Agency. It concludes that all impacts from the CHP are negligible, meaning that the impacts will be acceptable either alone, or in combination with, other sources.
- 6.6.5 The Council's Public Protection Officer has reviewed this report in detail and confirms that it is generally acceptable. In relation to PM<sub>10</sub> the Officer considers that the contribution would be very small due to the mitigation contained within the system, and

notes that there would be a reduction of PM<sub>10</sub>s from the reduction in the use of the existing biomass units. In conclusion the Officer considers that the proposal would not create any significant impact on the health and wellbeing of residents in the vicinity.

- 6.6.6 Noise: In response to advice from officers, an updated noise report has been submitted which also considers noise from the poultry units as part of an assessment of cumulative impacts. The report calculates noise levels at the nearest noise sensitive receptors. It concludes that the noise generated by the proposed development would fall below existing background sound levels in the area and would be at a level which would be considered to be of low impact in accordance with the relevant British Standard and Government planning guidance. It also states that when the proposed CHP plant and the poultry farm are operational at the same time, the combined cumulative noise level would be at or below the farm measured background sound level would be noticeable but not intrusive, and concludes that there are no noise-related issues to prevent planning permission being granted.
- 6.6.7 The Council's Public Protection Officer has reviewed the submitted noise report in detail. Having noted the background noise in the area and the insulation of the building the officer does not anticipate that any nearby residential properties would be significantly affected. The NPPF states that planning decisions should aim to avoid noise from giving rise to significant adverse impacts on health and quality of life. Based upon the noise report and technical advice received it is not considered that noise from the proposal in cumulation with the existing poultry units would be unacceptable.
- 6.6.8 Odour: As noted in para. 6.1.1 above, at present poultry litter is removed from the sheds at the end of each crop cycle and transported to nearby fields by tractor and trailer where it is stored on the fields until ready to be spread, maybe for a number of weeks. The submitted odour report acknowledges that this storage has caused odour issues in the past. Under the current proposal the covered trailer would be driven the short distance from the poultry sheds to the CHP building, reversed into the store and the manure would be pushed out of the trailer. Once manure from that cycle has been deposited in the storage area the building doors would be kept closed until the end of the next crop cycle. The air in the storage shed would be under negative pressure and the combustion process would be expected to remove odourous components. The litter burning process would produce an ash which would be used as a fertiliser. The ash fertiliser is odour free and therefore there would be a reduction in odours as there would be no transport of manure past residential properties or any need for storage and spreading of manure. Officers acknowledge the concerns raised by local residents regarding existing odour from the poultry units. However Officers consider that the current proposal would provide a betterment compared to the existing situation. The Council's Public Protection Officer has raised no objections to the proposal on odour impact grounds.
- 6.6.9 Further controls over proposed operation: The existing poultry rearing unit is operated within the terms of an Environmental Permit issued by the Environment Agency. This Permit has recently been varied to allow the operation of the poultry litter burner as currently proposed, including the litter storage area within the proposed building. The issue of this Permit variation is evidence that the EA are satisfied that the proposal, to be operated in conjunction with the associated poultry rearing development, is acceptable in this location. For the EA's purposes, the CHP plant forms part of the

overall poultry operation which they regulate under the Environmental Permit. This control includes matters relating to emissions from the site.

- 6.6.10 In addition to the Permit the CHP plant is required to be approved by and operated in accordance with guidelines from the Animal and Plant Health Agency (APHA). The applicant's agent has advised that, in order to gain APHA approval, the plant must abide by specific requirements, including:
- Storage of poultry manure within an enclosed area;
  - Minimum temperature for burning of the manure;
  - Emission limit values for sulphur dioxide, nitrogen oxides and particulate matter;
  - Automatic shutdown facilities in the event of a breakdown or abnormal operating conditions.
- 6.6.11 The APHA has recently issued an approval which consents to the temporary operation of the proposed plant until 31/8/18. It is understood that the APHA would visit the site on two further occasions during this temporary period and, subject to the plant meeting their requirements, a full approval would be issued. The consent requires annual measuring of emissions.
- 6.6.12 No significant concerns over the likely emissions from the plant have been raised by either the EA or the APHA, the relevant pollution control authorities for this proposal. In considering planning applications, the NPPF states that local planning authorities should focus on whether the development itself is an acceptable use of the land, and the impact of the use, rather than the control of processes or emissions themselves where these are subject to approval under pollution control regimes. It states that planning authorities should assume that these regimes will operate effectively (para. 122). Based upon the conclusions of the technical reports submitted, and the advice of specialist consultees, it is considered that the proposal is an acceptable use of land and can be operated without adversely affecting local amenities. It is therefore in line with policies CS6 and MD7b.

## **7.0 CONCLUSION**

- 7.1 The proposed biomass boiler building would enable poultry manure that is produced at the adjacent poultry rearing development to be used beneficially on site to produce heat, electricity and a fertiliser. The proposal would increase the production of renewable energy and reduce carbon emissions, and comprises a sustainable form of development. The proposal would not have a significant impact on natural assets or adversely affect heritage assets in the area. It would provide a betterment in terms of odour impacts in relation to the existing situation. The proposal would result in some additional noise and air pollutants. However following detailed consideration of these elements of the proposal by consultees it is not considered that this would result in an unacceptable impact in the area. The Environment Agency has issued a variation to the existing Environmental Permit for the poultry units to include the proposed poultry litter burner and as such the operation will be regulated as part of the wider operation. In addition the plant has received a temporary consent from the Animal and Plant Health Authority and will need to be operated in accordance with this regime. It is considered that satisfactory controls would be imposed on the operation to avoid unacceptable land-use impacts in the local area. As such the proposal is considered to be acceptable in relation to Development Plan and national planning policy and that, subject to the

conditions set out in Appendix 1, planning permission can be granted.

## 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**

Relevant Planning Policies

Central Government Guidance:  
National Planning Policy Framework

Core Strategy and Saved Policies:  
CS6 - Sustainable Design and Development Principles  
CS17 - Environmental Networks  
MD2 - Sustainable Design  
MD7B - General Management of Development in the Countryside  
MD12 - Natural Environment  
MD13 - Historic Environment

RELEVANT PLANNING HISTORY:

12/01367/EIA Erection of 6No poultry units, 14No feed bins, a biomass store, boiler room and ancillary buildings including 6No control rooms and office; construction of weigh bridge; formation of new access, road improvements, landscape scheme; installation of 4 x 53No mono crystalline solar panels on roof of shed No 3 REFUSE 11th February 2013  
16/04874/AGR Steel framed general farm storage building PNR 17th November 2016

Appeal

13/02065/REF Erection of 6No poultry units, 14No feed bins, a biomass store, boiler room and ancillary buildings including 6No control rooms and office; construction of weigh bridge; formation of new access, road improvements, landscape scheme; installation of 4 x 53No mono crystalline solar panels on roof of shed No 3 ALLOW 29th July 2014

**11. Additional Information**

View details online:

List of Background Papers (This MUST be completed for all reports, but does not include items containing exempt or confidential information)
Cabinet Member (Portfolio Holder) Cllr R. Macey
Local Member

Cllr Paul Wynn

Appendices

APPENDIX 1 - Conditions

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

1. 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 DURING THE CONSTRUCTION/PRIOR TO THE OCCUPATION OF THE DEVELOPMENT**

2. Within two months of the date of this permission a landscaping plan shall be submitted to the Local Planning Authority. The plan shall include:

- a) Planting plans, creation of wildlife habitats and features and ecological enhancements;
- b) Written specifications (including cultivation and other operations associated with plant, grass and wildlife habitat establishment);
- c) Schedules of plants, noting species (including scientific names), planting sizes and proposed numbers/densities where appropriate;
- d) Native species used are to be of local provenance (Shropshire or surrounding counties);
- e) Details of trees and hedgerows to be retained and measures to protect these from damage during and after construction works;
- f) Implementation timetables.

The plan shall be carried out as approved and in accordance with the approved timescales.

Reason: To ensure the protection of amenity and biodiversity afforded by appropriate landscape design.

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

3. The development hereby permitted shall not be used to store or burn poultry litter other than that produced at Vantage Farm.

Reason: To control the scale of the operation in order to protect local amenity and maintain highway safety.

4. Vehicles transporting ash by-product from the site shall not enter the public highway other than via the main poultry access to the south-east.

Reason: To maintain highway safety and avoid adverse residential amenity.

5. Vehicles transporting ash by-product from the site shall not enter the public highway unless the load is covered.

Reason: To prevent dust emissions or spillage of material during transit in order to protect local amenity and maintain highway safety.

### **Informatives**

1. In arriving at this decision Shropshire Council has used its best endeavours to work with the applicant in a positive and proactive manner to secure an appropriate outcome as required in the National Planning Policy Framework, paragraph 187.

2. Your attention is specifically drawn to the conditions above that require the Local Planning Authority's approval of materials, details, information, drawings etc. In accordance with Article 21 of the Town & Country Planning (Development Management Procedure) Order 2010 a fee is required to be paid to the Local Planning Authority for requests to discharge conditions. Requests are to be made on forms available from [www.planningportal.gov.uk](http://www.planningportal.gov.uk) or from the Local Planning Authority. The fee required is £116 per request, and £34 for existing residential properties.

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

3. As part of the planning process, consideration should be given to the information contained within Shropshire Fire and Rescue Service's "Fire Safety Guidance for Commercial and Domestic Planning Applications" which can be found using the following link:  
<http://www.shropshirefire.gov.uk/planning-applications>

Specific consideration should be given to the following:

Enclosed Agricultural Buildings over 280m<sup>2</sup>

Access for Emergency Fire Service Vehicles

It will be necessary to provide adequate access for emergency fire vehicles. There should be sufficient access for fire service vehicles to within 45 metres of every point on the projected plan area or a percentage of the perimeter, whichever is less onerous. The percentage will be determined by the total floor area of the building. This issue will be dealt with at the Building Regulations stage of the development. However, the Fire Authority advise that early consideration is given to this matter.

THE BUILDING REGULATIONS, 2000 (2006 EDITION) FIRE SAFETY APPROVED DOCUMENT B5.' provides details of typical fire service appliance specifications.

Water Supplies for Fire fighting - Building Size

It is important to note that the current Building Regulations require an adequate water supply for firefighting. If the building has a compartment of 280m<sup>2</sup> or more in area and there is no existing fire hydrant within 100 metres, a reasonable water supply must be available. Failure to comply with this requirement may prevent the applicant from obtaining a final certificate.

4. Landscaping informative

Where it is intended to create semi-natural habitats (e.g. hedgerow/tree/shrub/wildflower planting), all species used in the planting proposal should be locally native species of local



provenance (Shropshire or surrounding counties). This will conserve and enhance biodiversity by protecting the local floristic gene pool and preventing the spread of non-native species.

#### Nesting bird informative

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

It is a criminal offence to kill, injure or take any wild bird; to take, damage or destroy an active nest; and to take or destroy an egg. There is an unlimited fine and/or up to six months imprisonment for such offences.

All vegetation clearance, tree removal, scrub removal, conversion, renovation and demolition work in buildings, or other suitable nesting habitat, should be carried out outside of the bird nesting season which runs from March to August inclusive.

If it is necessary for work to commence in the nesting season then a pre-commencement inspection of the vegetation and buildings for active bird nests should be carried out. If vegetation or buildings cannot be clearly seen to be clear of nests then an appropriately qualified and experienced ecologist should be called in to carry out the check. Only when there are no active nests present should work be allowed to commence. No clearance works can take place with 5m of an active nest.

If during construction birds gain access to any of the buildings/vegetation and begin nesting, work must cease until the young birds have fledged.

**This page is intentionally left blank**



Committee and Date

North Planning Committee

29<sup>th</sup> May 2018

Item

8

Public

## Development Management Report

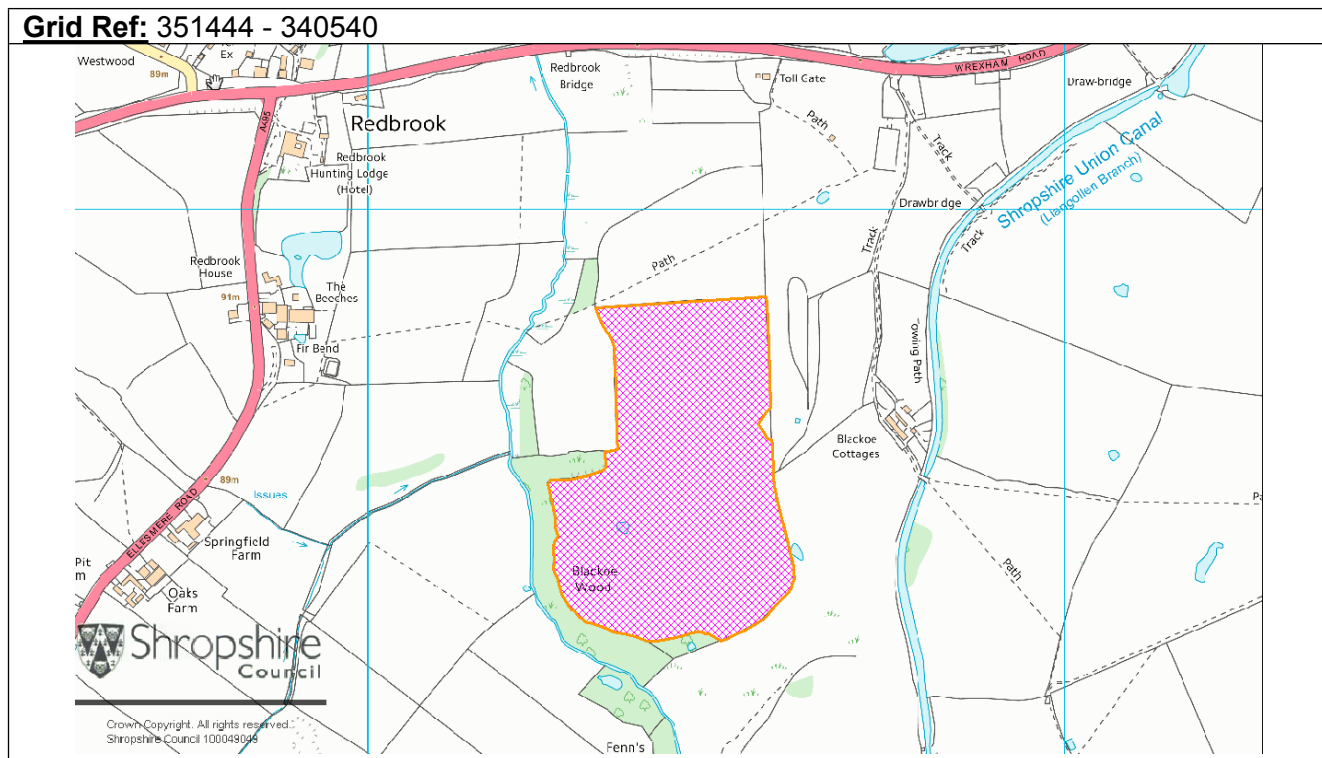
Responsible Officer: Tim Rogers

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

### Summary of Application

<b><u>Application Number:</u></b> 18/00693/VAR	<b><u>Parish:</u></b> Whitchurch Urban
<b><u>Proposal:</u></b> Variation of Condition no 2 (approved drawings) and 9 (external colour of the buildings) attached to planning permission ref 14/02914/FUL to regularise the change in the colour of two inverters	
<b><u>Site Address:</u></b> Solar Farm South West Of Hadley Farm Wrexham Road Whitchurch Shropshire	
<b><u>Applicant:</u></b> Ms Penny Laurenson	
<b><u>Case Officer:</u></b> Kelvin Hall	<b><u>email:</u></b> <a href="mailto:planningdmc@shropshire.gov.uk">planningdmc@shropshire.gov.uk</a>

**Grid Ref:** 351444 - 340540



© Crown Copyright. All rights reserved. Shropshire Council 100049049. 2016 For reference purposes only. No further copies may be made.

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

## 1.0 THE PROPOSAL

1.1 Planning permission was granted in 2014 for the construction of a solar farm on land at Hadley Farm near Whitchurch (ref. 14/02914/FUL). The site commenced generation of electricity at the end of 2015. In addition to the solar panels the development includes a number of small support buildings in two clusters towards the central part of the site. These buildings include transformer kiosks, inverter buildings and substations. The approved plans require that the five inverter buildings are coloured green. This application seeks retrospective approval for a change to the colour of two of the these from green to white. No other changes to the approved plans are proposed.

## 2.0 SITE LOCATION/DESCRIPTION

2.1 The solar farm is located at Hadley Farm, approximately 1.5km to the southwest of the edge of Whitchurch. The solar farm covers an area of approximately 10ha and includes 19,596 pv panels in south-facing rows within a perimeter fence. The area is gently undulating, with the site itself relatively flat. Land to the southwest, south and southeast comprises woodland. A field to the northeast is used for horse riding and jumping. Other surrounding land is undeveloped and in agricultural use. Access to the site is from the A525 to the north, via an existing access which leads to a car park serving the horse riding area and a café.

2.2 The nearest residential properties are the six dwellings known as Blackoe Cottages, located approximately 170 metres to the east of the solar farm boundary. Other individual properties in the vicinity are located approximately 310 metres to the north and 430 metres to the west. The Shropshire Union Canal runs in a generally north-south orientation to the east of the site. At its nearest point it is 95 metres from the application site. Public rights of way in the vicinity include a footpath to the north (approximately 15 metres from the northern boundary) and the Shropshire Way to the east (approximately 145 metres away). The site is crossed by two sets of overhead power lines.

## 3.0 REASON FOR COMMITTEE DETERMINATION OF APPLICATION

3.1 The application relates to land which forms the property of a Member of the Council. The Council's Scheme of Delegation requires that such applications are determined by Planning Committee.

## 4.0 COMMUNITY REPRESENTATIONS

### 4.1 Consultee Comments

4.1.1 **Whitchurch Town Council** No response received.

4.1.2 **SC Archaeology** No comments to make.

4.1.3 **SC Conservation** No comments to make.

4.1.4 **Heritage England** No comments to make.

4.1.5 **Natural England** No comments to make.

## 4.2 **Public Comments**

4.2.1 The application has been advertised by site notice. In addition 10 residential properties in the vicinity of the site have been directly notified. No representations have been received.

## 5.0 **THE MAIN ISSUES**

- Principle of development
- Siting, scale and design
- Other matters

## 6.0 **OFFICER APPRAISAL**

### 6.1 **Principle of development**

6.1.1 The solar farm has been generating renewable energy since 2015 and the planning permission allows the site to continue generating electricity for the national grid until 2045 following which the infrastructure is to be removed.

6.1.2 The application states that, due to manufacturer shortages during the construction phase of the solar farm, two of the five inverter buildings were supplied with a white finish instead of the approved green finish. The acceptability of this change is discussed below.

### 6.2 **Siting, scale and design**

6.2.1 Core Strategy policy CS6 seeks to ensure that development is appropriate in scale and design taking into account local context and character, having regard to landscape character assessments and ecological strategies where appropriate. Policy CS17 also seeks to protect and enhance the diversity, high quality and local character of Shropshire's natural environment and to ensure no adverse impacts upon visual amenity and heritage assets.

6.2.2 The two white inverter buildings each measure 2.5 metres x 0.9 metres x 2.2 metres high. They are situated within one of the clusters of other support buildings located towards the centre of the solar farm. Other buildings within this cluster include a kiosk which measures 5 metres x 2.4 metres x 2.9 metres high, and a substation which is contained within a mesh compound which measures 4.5 metres x 4.1 metres x 3 metres high. The height of the solar panels surrounding these buildings varies between 2.19 metres and 2.36 metres.

6.2.3 The visibility of the white inverters would be concealed by the other buildings and panels surrounding them. As such it is not considered that the proposal to seek permission from a green colour to white would affect the visual appearance of the site. The proposal does not raise any significant land use issues and it is considered that it is acceptable in relation to Development Plan policies.

6.2.4 Condition 9 of the planning permission ref. 14/02914/FUL specifies that the support buildings are coloured moss green. It is considered that the wording of this can be changed to read:

*"The external colour of inverters no. 4 and 5, as shown on Drawing 3.24.5 Elevations and Plans, shall be white. All other buildings shall be RAL 6005 Moss*

*Green. Reason: To maintain an acceptable appearance in order to protect the visual character of the area.”*

6.2.5 Condition 2 of the planning permission states that the development shall be carried out strictly in accordance with the approved plans and drawings. This list can be updated to reflect the proposed change to the colour.

### 6.3 **Other matters**

6.3.1 It is considered that the list of approved drawings in the planning permission should be updated so that it includes details of a composting toilet within the site which was previously approved. In addition a number of conditions have now been discharged and the wording of these conditions should be updated to reflect this.

### 7.0 **CONCLUSION**

7.1 Due to supply shortages during the construction phase of the solar farm at Hadley Farm, two of the five inverter buildings were installed with a white finish instead of the approved green colour. The inverters are situated towards the centre of the site and, from viewpoints beyond the site boundary, are concealed by other buildings and the solar panels. As such the proposal to change the approved colour from green to white would not adversely affect the visual appearance of the site. It is considered that the proposal for a variation to the relevant conditions of the planning permission (conditions 2 and 9) to allow for a change in the colour of the two inverters and for other minor amendments is acceptable and that planning permission can be granted subject to the conditions set out in Appendix 1.

## 8. **Risk Assessment and Opportunities Appraisal**

### 8.1 Risk Management

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

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

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

### 8.2 Human Rights

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

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

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

### 8.3 Equalities

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

## 9. Financial Implications

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

## 10. Background

### Relevant Planning Policies

Central Government Guidance:  
National Planning Policy Framework

Core Strategy and Saved Policies:  
CS5 - Countryside and Greenbelt  
CS6 - Sustainable Design and Development Principles  
CS8 - Facilities, Services and Infrastructure Provision  
CS13 - Economic Development, Enterprise and Employment  
CS17 - Environmental Networks  
CS18 - Sustainable Water Management  
MD2 - Sustainable Design  
MD8 - Infrastructure Provision  
MD12 - Natural Environment  
MD13 - Historic Environment

**RELEVANT PLANNING HISTORY:**

NS/06/01838/ENQ erection of 3-4 holiday cabins REC

14/01807/SCR Proposed solar farm EAN 4th July 2014

14/02914/FUL Installation and operation of a solar farm and associated infrastructure, including photovoltaic panels, mounting frames, inverters, transformers, substations, communications building, fence and pole mounted security cameras. GRANT 24th October 2014

15/02173/DIS Discharge of conditions 4, 5, 6, 7 and 8 attached to planning permission

16/03515/AMP Non Material Amendment attached to Planning Permission 14/02914/FUL for the installation and operation of a solar farm and associated infrastructure, including photovoltaic panels, mounting frames, inverters, transformers, substations, communications building, fence and pole mounted security cameras GRANT 8th September 2016

## 11. Additional Information

[View details online:](#)

List of Background Papers (This MUST be completed for all reports, but does not include items containing exempt or confidential information)
Cabinet Member (Portfolio Holder) Cllr R. Macey
Local Member  Cllr Thomas Biggins Cllr Peggy Mullock
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 following approved plans and drawings.

- drawing no. 10.5 Overall Layout, Date 22/12/15
- Camera Elevation Design, Date 13/4/16
- Access Gate Elevation Design, Date 13/4/16
- Panels Elevation Design, Date 13/4/16
- FIG 1, UA007147-06 Planting Plan, Date 30/11/15
- 03 1/1, Rev. Drainage System Proposed Layout, Date 10/9/15
- 3.15.2, Security System Layout, Date 22/12/15
- 3.24.2, Plans and elevations Sheet 1/3 Date, 22/2/16
- 3.24.5 rev. 01, Plans and elevations Sheet 2/3, Date 17/1/2018
- 3.24.2, Plans and elevations Sheet 3/3, Date 22/2/16
- Fence elevation design, Date 22/2/16
- 3.24.3.2, Rev. 01 Foundations and footings, Date 4/8/16
- HDF\_02 Site location plan, Date 1/6/14

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 ARE RELEVANT FOR THE LIFETIME OF THE DEVELOPMENT**

3. Work shall be carried out strictly in accordance with the Reasonable Avoidance Measures (RAMS) Method Statement for Great Crested Newts by Hyder dated October 2014.

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

4. The development shall be carried out in accordance with the approved Written Scheme of Investigation (WSI) by Clwyd-Powys Archaeological Trust.

Reason: The site is known to hold archaeological interest.

5. The approved sustainable urban drainage scheme, comprising the documents set out below, shall be adhered to throughout the lifetime of the development:

- Drainage Strategy report dated 15th May 2015;
- drawings 'Drainage Strategy Plan' no. 0100 01;
- drawings 'Existing Contours and Indicative Overland Flow Paths' no. 0200 01.

Reason: To ensure the appropriate implementation and management of the surface water drainage scheme.

6. The badger protection measures set out in the following approved documents shall be adhered to throughout the lifetime of the development:

- Pre-Construction Badger Survey dated May 2015;
- addendum dated 30th June 2015 prepared by Hyder Consulting (UK) Ltd.;
- drawing Fig 1 (Badger Sett Location (Confidential)) ref. UA007147-01;
- drawing Fig 1 (Planting Plan) ref. UA007147-04;
- drawing Fig 2 (Biodiversity Plan) ref. UA007147-02.

Reason: To ensure the protection of badgers.

7. The development hereby permitted shall adhere to the approved biodiversity management plan at all times. The approved plan comprises:

- Landscape and Biodiversity Management Plan dated 27th June 2014;
- addendum dated 30th June 2015 prepared by Hyder Consulting (UK) Ltd.;
- drawings Fig 1 (Badger Sett Location (Confidential)) ref. UA007147-01;
- drawing Fig 1 (Planting Plan) ref. UA007147-04;
- drawing Fig 2 (Biodiversity Plan) ref. UA007147-02.

Reason: To ensure the protection and enhancement of species and habitats on site.

8. The external colour of inverters no. 4 and 5, as shown on Drawing 3.24.5 Elevations and Plans, shall be white. All other buildings shall be RAL 6005 Moss Green.

Reason: To maintain an acceptable appearance in order to protect the visual character of the area.

9. The security fence and CCTV cameras shall be supported by wooden poles as detailed on the submitted documents. Any replacement poles required shall be replaced like for like with wooden poles for the lifetime of the development.

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

10. The landscape planting as shown on approved drawing Fig.1 (Planting Plan) shall be completed within 12 months of the commissioning of the development hereby permitted. Any trees or plants that, within a period of five years after planting, are removed, die or become seriously damaged or defective, shall be replaced with others of species, size and number as originally approved, by the end of the first available planting season.

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

11. Within 6 months of the cessation of energy generation from the site, or by 10/6/2046, whichever is the sooner, all infrastructure associated with the solar farm will be removed from the site.

Reason: Notification was given to the local planning authority by Lightsource Renewable Energy Holdings Ltd. on 12/1/2016 that the completion date was 10/12/2015. This condition is to ensure that the solar farm development is removed from the site following the end of its operational life or within a reasonable period of time to protect the landscape character of the area.



Committee and Date  
 North Planning Committee  
 29<sup>th</sup> May 2018

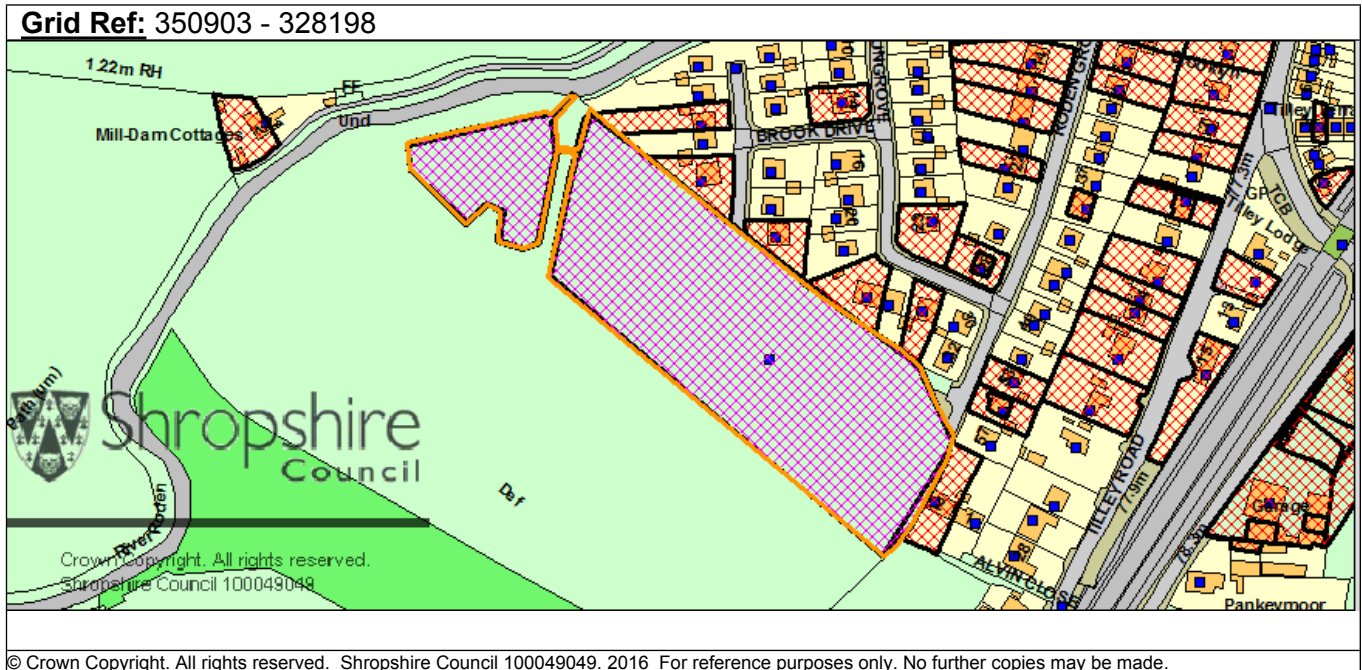
Item  
9  
 Public

## Development Management Report

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

### Summary of Application

<b>Application Number:</b> 18/00846/REM	<b>Parish:</b>	Wem Urban
<b>Proposal:</b> Reserved matters (appearance, landscaping, layout and scale) pursuant to 14/02851/OUT for the erection of 25 dwellings		
<b>Site Address:</b> Land Off Roden Grove Roden Grove Wem Shropshire		
<b>Applicant:</b> Mrs M.E. Ward and Fletcher Homes (Shropshire) Ltd		
<b>Case Officer:</b> Jane Preece	<b>email:</b> <a href="mailto:planningdmne@shropshire.gov.uk">planningdmne@shropshire.gov.uk</a>	



**Recommendation:-** That subject to the receipt of a satisfactorily amended landscape plan to move the large trees TP1 2 and 3 into the ecology buffer and the specimen garden trees TP6 (x2) Rosebud Cherry and TP4 Rowan into the POS to address future potential overshadowing issues; to the receipt of an amended Affordable Housing Proforma and CIL Form O to correlate with the revised dwelling floor areas and to

**confirmation from the applicant/agent that all reference to the affordable dwellings is as 2 bed 3 person units rather than 2 bed 4 person units, that reserved matters approval be granted, subject to the conditions set out in Appendix 1.**

## REPORT

### 1.0 THE PROPOSAL

1.1 Outline planning permission for the erection of 25 dwellings to include means of access was granted in 22<sup>nd</sup> May 2015 (reference 14/02851/OUT). The site will utilise an existing access connecting the land to Roden Grove.

1.2 Access is not therefore a reserved matter. Access was included at the outline stage and the full design and engineering details are to be secured through pre-commencement condition 5 of the outline planning permission.

1.3 Condition 5 reads as follows:

*'Prior to the commencement of development full engineering details of the access road extension of Roden Grove to serve the site shall be submitted to and approved in writing by the Local Planning Authority; the development hereby permitted shall not be first occupied until the access scheme have been implemented fully in accordance with the approved details*

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

1.4 A concurrent discharge of conditions application has been submitted pursuant to the discharge of condition 5 (reference 18/00863/DIS).

1.5 Only matters relating to the layout, scale, appearance and landscaping are reserved for later approval – condition 1 of the outline consent refers:

*'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.'*

1.6 This current application therefore seeks reserved matters approval for the layout, scale, appearance and landscaping of development in accordance with the outline pursuant to permission 14/02851/OUT for the erection of 25 dwellings.

1.7 None the less, the Highway Authority have been consulted on the reserved

matters application, in so far as the scale, layout and landscaping have implications for highway matters.

1.8 Condition 4 attached to the outline consent also requires:

*'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 foul and surface water drainage of the site*
- *The finished floor levels*
- *Public open space*

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

1.9 The number of units is as per the consented outline description of development, ie 25.

1.10 The site is to be enclosed by the existing hedgerow to north east boundary with Roden Grove/Sun Grove/Brook Drive. The enclosure of the site to the west and south west will be in the form of a newly planted hedgerow of native species, together with incidental tree planting as part of the landscaping proposals. An area of designated open space is to be provided on the north western part of the site, amounting to 2806 sq m in area. Otherwise, cross sections accompany the submission, together with information on finished floor levels and details of the proposals for foul and surface water disposal. As indicated at outline stage, the drainage scheme includes for the provision of an attenuation pond to the north west with an outfall to the River Roden.

## 2.0 **SITE LOCATION/DESCRIPTION**

2.1 The land is located to the south west of Roden Grove in an area which was identified as being part in open countryside and part in the Council's Site Allocations and Management of Development Document (SAMDev) adopted on 17 December 2015. The site lies to the south of the River Roden and the land is generally low lying with a slightly elevated section towards the centre of the site.

2.2 The land is primarily used for grazing of livestock with there being a belt of trees to the south west of the field. Other trees are along the bank of the River Roden which meanders from Tilley into Wem.

2.3 To the north east and to the east of the application site there are residential properties. These were mainly constructed in the 1970's and range in size and style. Some are two storey and some are single storey.

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

3.1 The Local Members have requested that the application be referred to the Planning Committee for determination and the Chair and Vice in consultation with

the Principal Planning Officer have concluded with consideration to local concerns and material planning issues raised that it is appropriate for this application to be considered at Committee.

#### 4.0 **Community Representations**

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

4.1.1 **SC Highways** – No objection - subject to the development being carried out in accordance with the approved details and general informative notes.

4.1.2 **SC Affordable Houses** – We note the plot number for the affordable housing are now 5 and 6 which are 2 bed properties. There is a need for 2 bed affordable units in this area but would ask that dwellings as proposed are classed as 2 bed/3 person units as these are not considered suitable as 2bed/4 person units. A proforma should also be submitted so the financial contribution can be agreed.

4.1.3 **SC Archaeology (Historic Environment)** – Note that the planning agent acting for the applicant has accepted the archaeological condition that was recommended in our previous advice. As a consequence, have no further comments to make with respect to archaeological matters.

Suggested Condition: Pre-commencement securement of implementation of a programme of archaeological work in accord with a written scheme of investigation (WSI).

4.1.4 **SC Trees** The landscape plan has been amended to reflect my previous comments of 23/3/18 including the addition of 3 large canopy trees planted as standard size in the POS. I can now support the arboreal proposals for this scheme.

4.1.5 **SC Ecology** – Welcomes the attenuation pond, ecological buffers, additional hedge and tree planting. Would request that a construction environmental plan and long term habitat management plan is submitted - this could be an additional planning condition. Would seek alterations to the tree planting in the public open space to ensure that all species chosen are native and found locally within Shropshire. Elder included in the native hedge mix should be changed for another native species as it tends to outgrow a hedgerow.

Recommended conditions: Construction Environmental Management Plan; Landscaping Plan; Habitat Management Plan.

Informatives: Landscape planting of locally native species.

4.1.6 **SC Parks and Recreation** – The development includes 25 properties equating to 78 bedrooms. Working on 30 square metres per person it equates to an area of 2340m<sup>2</sup>. The layout plan attached to the application shows the OAS area extending to 2806m<sup>2</sup> which fulfils the planning criteria.

4.1.7 **Severn Trent Water** – No objections subject to the inclusion of the following

condition:

- The development hereby permitted should not commence until drainage plans for the disposal of foul and surface water flows have been submitted to and approved by the Local Planning Authority, and
- The scheme shall be implemented in accordance with the approved details before the development is first brought into use. This is to ensure that the development is provided with a satisfactory means of drainage as well as to prevent or to avoid exacerbating any flooding issues and to minimise the risk of pollution.

NB: Severn Trent Water have been re-consulted on the amended plans and additional drainage information but no re-consultation response has been received at the time of writing.

- 4.1.8 **SC Learning and Skills** – No comments received.
- 4.1.9 **SUDS** – The surface water drainage layout and design is acceptable.
- 4.1.10 **Environment Agency** – With regards this site we would have no comments to offer on the application as the site falls within Flood Zone 1, the low risk Zone. Looking at the plan you attached there is a proposed outfall to the River Roden which will require a Flood Risk Activity Permit from us (previously called a Flood Defence Consent). The applicant is advised to contact our Partnerships and Strategic Overview (PSO) team to discuss further (pso.midswest@environment-agency.gov.uk).
- 4.2 **Public Comments**
- 4.2.1 **Wem Town Council** – After carefully considering the amended application at a meeting of the Planning and Transport Committee the Council is of the opinion that the response provided by the agent to the Town Council's previous objections does not sufficiently address the council's objections to the application submitted on 4.4.18. Therefore the Town Council will not be changing its previous objections to the application.

Previous objection of 4.4.18:

The Town Council is disappointed that the applicant has continued with this application as the Town Council has previously strongly objected to any development of this land.

Having studied the reserved matters application the Town Council has the following objections

Flooding - The application does not address the surface water flooding concerns previously raised by the Town Council that will be created should the development go ahead. The surface water from development will flow directly onto existing properties neighbouring the site which will cause potential flooding problems for these existing properties. In addition to this the Town Council is very concerned about the proposed drainage for this development which is

inadequate as the French drains proposed will only last 10 years and The Town Council would like to know which authority will be responsible for dealing with the future flooding issues that this development will cause.

Property size - the size of houses proposed are the wrong type for the area. Smaller houses are needed to meet local housing needs.

Topography of the site - the houses on the southern side sit higher than the existing properties so there will be a negative impact on the townscape.

Impact on local highway network - the number of extra vehicles this development will produce will increase the amount of traffic onto neighbouring roads. This is unacceptable to the Town Council as Mill Street is already congested.

Sewage System - As previously stated the Town Council has concerns that the plans to link the new properties up the existing sewage system and not upgrade the existing system. The sewage system to the existing properties in the area is already inadequate as the residents of Brook Drive frequently suffer from sewage problems. Linking an additional 25 dwellings into the current system which is not currently fit for purpose will impact negatively on both new and existing properties.

Access to the site - The Town Council remains unconvinced that the applicant has ownership of the access to the site where the development is to be place. Proof must be given that the landowner owns the access to the site.

The Town Council consider it imperative that this application is determined by the North Area planning committee.

4.2.2 **Public representations** – 111 contributors have submitted representations of objection. The contributors include the two Local Members; the Roden Grove Action (Campaign) Group and local residents (some of whom have submitted multiple representations).

The main **objections** raised relate to:

- Discontent with granting of outline approval. Site beyond development boundary of the town. Should have been refused. Site has history of rejections. Call for previous decision to be reversed.
- This application should be refused.
- Land is unsuitable for building.
- Lack of/stretched infrastructure in Wem: schools; doctors; dentist.
- Flooding/drainage concerns: Wet ground conditions/high water table/affected by surface water flooding.
- EA flood risk map. Fails sequential test – are other sites with lower/no flood risk.
- Question validity of drainage information/credibility of drainage report.
- Question ability of measures to mitigate flood risk.
- French trains have limited life (7 to 10 years).
- Attenuation pond is potential health and safety hazard to young children.



- Question responsibility for maintaining drainage proposals and dealing with future flooding issues the development will cause.
- Sewage. Are problems with existing sewage facilities. Do not consider the sewage system can cope. Severn Trent Water have been called out to Brook Drive/Sun Grove due blockages and failure of water pump on Sun Grove.
- Site has potential to generate litigious public health issues with drainage in general and with sewage in particular.
- Topography. Land is not flat. Is higher on southern side. Drainage and townscape impact of topography.
- Access. Are existing problems onto Mill Street. Mill Street is already congested. Roden Grove is narrow and not compatible for extra traffic and emergency vehicles.
- Ownership of access – proof of ownership must be given.
- Increase in traffic. Traffic report figures are too low.
- Nuisance from construction traffic.
- Damage to wildlife. Destruction of habitat. Pollution of River Roden.
- Impact on historic environment/heritage assets.
- Damage to archaeological remains.
- Detrimental to setting of Tilley and River Roden.
- Need to retain separation between Wem and Tilley
- Size of properties. Wrong type for area. Smaller houses are needed to meet local needs.
- Proposal inappropriate in size and scale in relation to character of area.
- Dwellings are overbearing/over dominant.
- Overlooking.
- Loss of light and views from tree planting.
- Proposal does not contribute positively to the local character and distinctiveness
- Layout is poor and an over intensive form of development.
- Concerned this is phase 1 of a large development. Note the open ended road on plan.
- Impact of lighting.
- Excessive noise and nuisance from people using public open space.
- If approval recommended, permitted development rights must be removed by condition.

4.2.3 The full content of all consultee comments and public representations are available to view on line.

## 5.0 THE MAIN ISSUES

5.1 As stated in 1.1 above, the site has outline planning permission for the erection of 25 dwellings to include means of access, granted on 22<sup>nd</sup> May 2015 (reference 14/02851/OUT).

5.2 The principle of residential development for 25 dwellings and the associated access provision are therefore established in accordance with the outline

consent.

- 5.3 The main issues therefore relate to the acceptability of the ‘reserved matters’ details submitted for consideration in respect of appearance; layout and scale and landscaping, in addition to the details submitted for consideration in accordance with condition 4 of the outline, which includes drainage. The potential impact on the historic environment and archaeological has also been raised since the granting of the outline consent.

## 6.0 OFFICER APPRAISAL

### 6.1 Background

- 6.1.2 Issues relating to the policy and principle of development; highways and access provision; ecology and drainage were all considered at the outline stage. The principle of development has been established with the granting of the outline planning permission and the access provision secured as a determined matter. In terms of ecology and drainage/flooding the outline application was accompanied by an Ecological Survey Report and a Flood Risk Assessment respectively. It was accepted that the site could be provided with satisfactory foul and surface water drainage arrangements and without being harmful to local habitats or biodiversity. Apart from the usual ‘reserved matters’ condition whereby details of the siting, design and external appearance of the development and the landscaping of the site are yet to be approved, as part of the outline approval additional conditions are also in place to ensure the prior approval of the engineering details of the access, together with the foul and surface water drainage of the site and to ensure the appropriate provision of bat boxes/bricks and external lighting and that all work is carried out in accordance with the Ecological Survey Report.

- 6.1.3 Whilst objectors continue to raise access objections in relation to matters of principle associated with housing planning policy, access, ecology and drainage such matters of principle are not before the Council for consideration as part of this reserved matters application.

- 6.1.4 In addition, officers have already previously dealt with a request to revoke the outline planning permission ref: 14/02851/OUT in the summer of 2016. The request was submitted by the Roden Grove Campaign Group on the generally summarised grounds that outline planning permission should not have been granted due to sustainability and flood risk issues. However, revocation was not considered expedient and the legal tests for a Local Planning Authority to revoke the grant of planning under s97 of the Town & Country Planning Act were not met. Therefore, the outline planning permission was not revoked.

### 6.1 Appearance, Scale and Layout

- 6.1.1 As originally submitted the application proposed 17 x 4 bed dwellings; 6 x 3 bed dwellings and 2 x 2 bed dwellings. Of those 15 were detached houses, 8 were semi-detached and 2 were dormer bungalows.

- 6.1.2 However, in response to objections received in relation to the dwelling types and sizes and their layout a revised scheme has been submitted. The application

now proposes a mix of 5 x 4 bed dwellings; 18 x 3 bed dwellings and 2 x 2 bed dwellings. Of the 25 dwellings, there are 8 detached houses; 8 semi-detached houses; 4 dormer bungalows and 5 bungalows.

### 6.1.3 In more detail, the housing mix is as follows:

Plot 1 – 121 sq m – 4 bed dwelling. Semi-detached single garage and parking  
 Plot 2 – 104 sq m – 4 bed dwelling. Semi-detached single garage and parking  
 Plot 3 – 67 sq m – 3 bed semi. Parking  
 Plot 4 – 67 sq m – 3 bed semi. Parking  
 Plot 5 – 67 sq m – 2 bed semi. Tandem parking (Affordable dwelling)  
 Plot 6 – 67 sq m – 2 bed semi. Tandem parking (Affordable dwelling)  
 Plot 7 – 112 sq m – 3 bed dormer bungalow. Semi-detached single garage and parking  
 Plot 8 – 112 sq m – 3 bed dormer bungalow. Semi-detached single garage and parking  
 Plot 9 – 112 sq m – 3 bed dormer bungalow. Semi-detached single garage and parking  
 Plot 10 - 112 sq m – 3 bed dormer bungalow. Semi-detached single garage and parking  
 Plot 11 - 77 sq m – 3 bed bungalow. Semi-detached single garage and parking  
 Plot 12 - 77 sq m – 3 bed bungalow. Semi-detached single garage and parking  
 Plot 13 - 103 sq m - 3 bed bungalow. Attached double garage and parking  
 Plot 14 – 77 sq m – 3 bed bungalow. Semi-detached single garage and parking  
 Plot 15 – 77 sq m – 3 bed bungalow. Semi-detached single garage and parking  
 Plot 16 – 88 sq m - 3 bed dwelling. Semi-detached single garage and parking  
 Plot 17 – 88 sq m - 3 bed dwelling. Semi-detached single garage and parking  
 Plot 18 – 104 sq m – 4 bed dwelling. Semi-detached single garage and parking  
 Plot 19 – 88 sq m - 3 bed dwelling. Semi-detached single garage and parking  
 Plot 20 – 67 sq m – 3 bed semi. Parking  
 Plot 21 – 67 sq m – 3 bed semi. Tandem parking  
 Plot 22 – 67 sq m – 3 bed semi. Tandem parking  
 Plot 23 – 67 sq m – 3 bed semi. Tandem parking  
 Plot 24 - 121sq m – 4 bed house. Semi-detached single garage and parking  
 Plot 25 - 121sq m – 4 bed house. Semi-detached single garage and parking

### 6.1.4 Despite objections to the contrary, it is considered that the mix as proposed here has been amended to offer a suitable range of smaller dwellings and includes the provision of two 2 bed affordable dwellings on site (plots 5 and 6), which together with the financial contribution will satisfy local need and adopted policy. In response to the comments of the Council's Housing and Enabling Officer, the agent will be requested to confirm that all reference to the affordable dwellings is as 2 bed 3 person units rather than 2 bed 4 person units (as it is understood that the latter does not meet the size criteria for registered providers in terms of floor area). Further the agent will be requested to provide an updated affordable housing contribution proforma. The currently submitted proforma details a contribution of £40,950 based on the floor area of the originally submitted suite of house types. The revised proposals will attract a lesser contribution due to the reduced floor area, calculated by officers to be in the region of £37,800.

- 6.1.5 In terms of external design and appearance, seven dwelling types are generally proposed with an element of variety provided through design detailing, size and use of materials. All house types will be finished externally with a mix of walling material to include brick and render. Render will be ivory or off white in colour. Roofing will be plain concrete tiles, either slate grey or tudor brown in colour. A materials schedule has been provided. Roofs are to be dual pitched, with some variation in roof design with the incorporation of eye brow dormer features, dormer windows and projecting gables on some house types. Otherwise, architectural details include brick eaves corbelling and verge details; reconstituted stone heads and sills; and timber and canopy porches. Differing dwelling types also include for a chimney and a bay window.
- 6.1.6 In all it is considered that the scale and appearance of the proposals are not unduly inappropriate for the area and are of sufficient visual interest, which when coupled with the layout and landscaping, will create a reasonably attractive environment. It is considered therefore, that the proposed development would be acceptable in scale and design as required by Core Strategy policy CS6, SAMDev policy MD2 and the Housing SPD and would not adversely detract from the quality of the environment and setting to this part of Wem, satisfying also Cores Strategy policy CS17 and the NPPF.
- 6.1.7 As submitted the application attracted objections in relation to over dominant development due to the size, layout and positioning of the properties in relation to the topography of the site. The topography of the site rises on its southern side away from the existing dwellings. In response, amended dwelling types have therefore been submitted, to provide more single storey and smaller scale units. Furthermore, the layout has been adjusted to provide a less regimented and more spacious pattern of development. It is considered by officers that these revisions help to assimilate the development better with the scale of development locally and will appear less visually domineering in the townscape.
- 6.1.8 In relation to density officers are satisfied that the amended proposals provide adequate space about the proposed buildings and that the site will not appear unduly cramped or out of context in relation to surrounding development.
- 6.1.9 Officers are further satisfied that the scale and layout of the proposed dwellings will cause no undue harm to the residential amenities of neighbouring residents.
- 6.1.10 Leading on from the above, a particular objection has been submitted to both the original and the revised scheme by the occupants of number 5 Brook Drive on the grounds of loss of privacy and light. In response to the original objection both the position and the scale of the nearest proposed dwelling has been adjusted. The proposed dwelling has been shifted back on the site, so that it no longer projects forward of number 5 and the dwelling type (which is a dormer bungalow) has been reduced in width and height. Further, the gable end of the proposed will be blank with no windows. Having considered the revised plans and whilst noting the neighbours continue to object, officers do not consider the siting, scale and design of the proposed dwelling concerned will result in a loss of privacy or overshadowing to number 5 sufficient for officers to be unsupportive of the revisions.

- 6.1.11 In the event that permission is approved the objector has requested the removal of permitted development rights by condition. A further objector has request the conditional removal of permitted development rights for alterations and additions and the erection of fences etc on all plots should the development be approved. To impose either such a condition is considered unduly onerous.
- 6.1.12 A further issue in relation to layout is that of the landscaping of the site and the provision of open space. This issue is discussed further below.
- 6.2 Landscaping**
- 6.2.1 The application is accompanied by a detailed landscaping scheme and ecology plan. As part of the landscaping proposals, the existing northern boundary hedge will be retained and a hedgerow of native species planting along the new boundaries to the south/south west and north west of the site. Incidental tree planting is also proposed alongside the new boundaries and within the site. To the north west, the plan also identifies an area designated as public open space (POS), adjoined by an attenuation pond and ecology buffer zone (beyond the new hedge line and adjacent the River Roden).
- 6.2.2 The Council's Parks and Recreation, Tree and Ecology Officers have all been consulted on the landscaping and ecology plan proposals. Following on from an amendment to trees species in the POS (to replace the Swedish Birch with native species) all are satisfied with the proposals.
- 6.2.3 Indeed in ecological terms the proposed attenuation pond, ecological buffers, additional hedge and tree planting are welcomed as they offer environmental enhancements. The Ecology Officer has agreed that her request for the replacement of Elder in the hedge planting mix with another native species can be dealt with by condition as can the provision of hedgehog friendly gravel boards within the design and construction of the proposed close boarded fencing that will line the existing hedgerow between the existing and proposed dwellings. Otherwise, it is agreed that it would be inappropriate to impose a pre-commencement condition requiring the submission of a landscaping plan, given the level of detail provided on the submitted landscape plan for which reserved matters approval is sought, and the agent has confirmed agreement to the imposition of conditions requiring the submission and prior approval a Construction Environmental Management Plan and a Habitat Management Plan.
- 6.2.4 Notwithstanding the above, an objection has been received from residents in Brook Drive on the grounds of overshadowing from the proposed trees. This concern has been referred back to the Council's Tree Officer, who has advised that as residents are concerned about shading in the future decades above the screening value of the trees to soften the built environment, then the developer could be requested to move the large trees TP1 2 and 3 into the ecology buffer adjacent and the specimen garden trees TP6 (x2) Rosebud Cherry and TP4 Rowan could then be moved into the POS.
- 6.2.5 A further concern that has been expressed by residents is the erection of the proposed 1.8 m high close boarded fence along the existing hedge line and

consequences for hedge maintenance. The agent has responded by stating that fence will limit growth on the development side and therefore the need for maintenance cutting. Any dispute over the access for maintenance purposes is a private civil matter.

### 6.3 **Impact on historic environment and archaeology**

6.3.1 The Council's Archaeologist has commented that: *'Information provided to the Shropshire Historic Environment Record after the determination of the outline application in May 2015, which included an interpretative assessment of Environment Agency LiDAR data, suggests that a number of degraded archaeological earthwork features are likely to be present on, and within the vicinity of, the development site. The majority of these are considered to be of agricultural origin and to relate to earlier field systems; Wem's medieval town fields and a subsequent water meadow system of possible 16th or 17th century date. However, they also include a potential building platform (the field is named as 'Windmill Field' on the Tithe Award map of 1838 for Tilley and Trench Townships in Wem Parish) and, near the boundary of the site, a palaeochannel of the River Roden.*

*For these reasons, the proposed development site is considered to have archaeological interest, albeit in relation to features of likely local level importance. ...'*

6.3.2 In view of the above, and in relation to Paragraph 141 of the NPPF and SAMDev Plan policy MD13, it is advised that a phased programme of archaeological work (to secure the implementation of a programme of archaeological work in accord with a written scheme of investigation (WSI)) should be made a pre-commencement condition of any planning permission for the proposed development. The agent has accepted the imposition of such a condition.

6.3.3 In terms of the historic environment, objectors have also raised a concern over the potential impact of the development on local heritage assets, including listed buildings in the hamlet of Tilley. Having regard to the context and setting of the nearest listed buildings and the general character of the area, and the requirements in relationship to the historic environment as set out in the NPPF and local plan policies, officers are of the opinion that the proposal will have no significant harm on the character and setting of local heritage assets.

### **Technical Matters**

#### 6.4 **Highways**

6.4.1 As referred to in paragraph 1.2 above access is not a reserved matter. Means of access was included at the outline stage and the full design and engineering details of the access are to be secured through pre-commencement condition 5 of the outline planning permission.

6.4.2 None the less, as further referred to in par. 1.5 above, the Highway Authority have been consulted on the reserved matters application, in so far as the scale, layout and landscaping have implications for highway matters.

6.4.3 Overall, the Highway Authority raises no objection to the revised scheme, subject to the development being carried out in accordance with the approved details and recommended informative notes. Additionally, the Highway Authority advises that in order to satisfy the adoption requirements of the Highway Authority the submitted road, footway, construction and drainage details need to be technically approved to enable the completion of an agreement under Section 38 of the Highways Act 1980.

6.4.4 Whilst objections on the grounds of means of access and traffic generation have been received such objections are not reasons to refuse a reserved matters application where access has already been approved as a determined matter under the outline planning permission.

6.4.5 Further, whilst some contributors call for ownership of the access to be proven, proof of ownership is not necessary as part of this reserved matters application. Any dispute over the ownership of the access is a private civil matter.

## 6.5 **Drainage**

6.5.1 In accordance with condition 4 of the outline planning permission foul and surface water details have been submitted for consideration at this time.

6.5.2 The application has attracted particular objections from local residents, the Town Council and Local Members on drainage and flood risk grounds.

6.5.3 The Council's Drainage advisors, Severn Trent Water and the Environment Agency have been consulted on the application.

### **Foul drainage**

6.5.4 Foul drainage is to be disposed of to the local mains sewer. Despite objections from local residents, Local Members and the Town Council on the grounds that the existing system is already experiencing problems and that the existing sewer infrastructure does not have the ability to cope with further connections Severn Trent Water have raised no objection to this reserved matters application on foul drainage grounds. Furthermore, in support of the application the agent has submitted a copy of letter from Severn Trent Water, dated 20<sup>th</sup> December 2017, confirming that *'The Pumping Station in question has capacity to receive the flows from the proposed 25 dwellings. As such a new connection to either of the foul sewers in Brook Drive or Roden Drive would be allowed subject to a formal S.106 sewer connection approval.'*

### **Surface water drainage**

6.5.5 The Environment Agency have raised no objection to the application. The EA have confirmed that the site falls within Flood Zone 1, the low risk Zone.

6.5.6 Likewise, the Council Drainage advisor confirms *'Except for the outfall to the River Roden, the development site is within Flood Zone 1, which has less than a 0.1% chance of flooding from the River Roden.'*

6.5.7 The Council's Drainage advisor further comments that: *'... Environment Agency mapping shows that a small area of the development has a greater than 3.3%*

*chance of flooding from surface water run-off. Surface water flooding as a result of run-off from the field, is well documented by the adjacent residents of Roden Grove.*

*The development will intercept much of the existing surface water run-off which will be directed to the attenuation pond and discharge to the River Roden at a greenfield run-off rate. ..*

- 6.5.8 As such the surface water drainage scheme has the potential to alleviate the existing surface water flooding problems which some neighbouring residents occasionally experience from the current site surface water run-off.
- 6.5.9 In brief surface water drainage is to be disposed of via new French drains and an attenuation pond that discharges into the River Roden in a controlled manner, ie via a hydro brake at typical greenfield run-off rates. The system is designed to intercept and direct all surface water from the site into the attenuation pond. In response to the initial consultation comments of the Council's Drainage advisor revised and additional drainage information has been submitted (to include for a 1 in 100 year event + 35% climate change; 10% urban creep and the provision of longitudinal sections and the design of road gullies etc).
- 6.5.10 The additional drainage information has been re-considered by the Council's Drainage advisor, who has now confirmed both the design and the layout of the proposed drainage scheme and details to be acceptable.
- 6.5.11 Notwithstanding the above, objectors remain concerned regarding existing drainage problems in the area and the potential of development to exacerbate the situation and lead to more flooding. Objectors also continue to question the validity of the drainage information submitted in support of the application.
- 6.5.12 In summary, it is the professional opinion of the Councils' Drainage advisor, that sufficient and adequate information has been submitted in support of the application and that both the design and the layout of the proposed drainage scheme and details are now acceptable. Therefore, whilst it is acknowledged that there remains local concern about increased surface water problems from developing the site, it is considered that the site can be developed with the agreed drainage scheme in place, secured by conditional requirements, to ensure that there is no greater risk of flooding either within the site or in the wider area and as such would comply with policy CS18 and the NPPF with regard to this matter.

## 7.0 **CONCLUSION**

- 7.1 The principle of a residential development on this land, along with the access has been accepted with the grant of outline planning permission reference 14/02830/OUT.
- 7.2 It is considered that the proposals (as amended) are acceptable in terms of layout, scale, appearance and landscaping taking into consideration local context and character and will not adversely detract from the immediate locality or the



wider landscape setting of Wem; nor adversely impact on ecology, neighbour amenity or heritage assets.

- 7.3 Surface water drainage issues that have been identified and raised during the consideration of this reserved matters application have been addressed to the satisfaction of the Council's Drainage advisor and, despite local objections to the contrary, the surface water drainage details that have been provided (as amended) are now considered acceptable.
- 7.4 Foul drainage proposals have resulted in no objection from Severn Trent Water and are considered acceptable.
- 7.5 Access was approved at the outline stage and the full engineering details of the means of access to the site from Roden Grove remain covered for prior approval by a pre-commencement condition imposed on the outline consent. The Highway Authority is satisfied with the internal access layout and details.
- 7.6 With the recommended archaeological condition in place, it is considered that the proposals comply with the requirements of policy MD13 of the adopted SAMDev Plan; together with the NPPF in relation to archaeological matters.
- 7.7 It is considered that the application proposals meet with adopted Core Strategy policies CS6, CS11, CS17 and CS18; adopted SAMDev policies MD2, MD3, MD12 and MD13; the Council's adopted SPD on the Type and Affordability of Housing; the National Planning Policy Framework and Section 66 of the Planning (Listed Building and Conservation Areas) Act 1990 – all subject to compliance with planning conditions.
- 7.8 On this basis approval is recommended, subject to conditions.
- 7.9 In arriving at this decision the Council has used its best endeavours to work with the applicant in a positive and proactive manner to secure an appropriate outcome as required in the National Planning Policy Framework paragraph 187.
- 8.0 Risk Assessment and Opportunities Appraisal
- 8.1 Risk Management

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

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

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

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

## 8.2 Human Rights

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

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

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

## 8.3 Equalities

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

## 9.0 Financial Implications

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

## 10. Background

### Relevant Planning Policies

Central Government Guidance:

## National Planning Policy Framework

## Core Strategy and SAMDev Plan Policies:

CS3 - The Market Towns and Other Key Centres

CS5 - Countryside and Greenbelt

CS6 - Sustainable Design and Development Principles

CS9 - Infrastructure Contributions

CS11 - Type and Affordability of housing

CS17 - Environmental Networks

CS18 - Sustainable Water Management

MD1 - Scale and Distribution of Development

MD3 - Managing Housing Development

MD2 - Sustainable Design

MD12 - Natural Environment

MD13 - Historic Environment

Settlement: S17 - Wem

SPD Type and Affordability of Housing

RELEVANT PLANNING HISTORY:

14/02851/OUT Outline application for the erection of 25No dwellings (to include access)

GRANT 22nd May 2015

18/00863/DIS Discharge of Condition 5 (Access details) relating to Planning Permission

## 11. Additional Information

[View details online:](#)

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

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

1. 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.

2. Notwithstanding the details shown on the approved landscaping and ecology plan no Elder (*Sambucus nigra*) shall be included within the native hedge planting mix. Any reference to Elder shall be replaced with Honeysuckle (*Lonicera periclymenum*).

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

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

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

Reason: The site is known to hold archaeological interest.

4. No development shall take place (including demolition, ground works and vegetation clearance) until a Construction Environmental Management 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, where protective measures will be installed or implemented and where ecological enhancements (e.g. hibernacula, integrated bat and bird boxes, hedgehog-friendly gravel boards and amphibian-friendly gully pots) will be installed or implemented;
- b) Details of protective measures (both physical measures and sensitive working practices) to avoid impacts during construction;
- c) Requirements and proposals for any site lighting required during the construction phase;
- d) A timetable to show phasing of construction activities to avoid harm to biodiversity features (e.g. avoiding the bird nesting season);
- e) Identification of 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.

All construction activities shall be implemented strictly in accordance with the approved plan, unless otherwise approved in writing by the Local Planning Authority.

Reason: To protect features of recognised nature conservation importance, in accordance with MD12, CS17 and section 118 of the NPPF.

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

5. A habitat management plan shall be submitted to and approved by the local planning authority prior to the occupation of the development. The plan shall include:

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

The plan shall be carried out as approved, and remain in place for the lifetime of the development.

Reason: To protect features of recognised nature conservation importance.

6. All hard and soft landscape works shall be carried out in accordance with the approved details. The works shall be carried out prior to the occupation of any part of the development or in accordance with the timetable agreed with the Local Planning Authority. Any trees or plants that, within a period of five years after planting, are removed, die or become, in the opinion of the Local Planning Authority, seriously damaged or defective, shall 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. The design and construction of the 1.8 m high close boarded fence indicated on the approved landscaping and ecology plan shall include for the installation of hedgehog friendly gravel boards which shall thereafter be maintained and retained for the lifetime of the development.

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

8. No dwelling shall be occupied until a landscape management plan, including long term design objectives, management responsibilities and maintenance schedules for all landscape areas, other than privately owned, domestic gardens, has been submitted to and approved by the local planning authority. The landscape management plan shall be carried out as approved.

Reason: To secure the provision, establishment and long term management and maintenance of all landscape areas.

9. No dwelling shall be occupied until a surface water management plan, including management responsibilities and maintenance schedules for the approved surface water drainage scheme, including the attenuation pond throughout its lifetime, has been submitted to and approved by the local planning authority. The surface water management plan shall be carried out as approved.

Reason: To secure the provision and long term management and maintenance of the approved surface water drainage scheme



Committee and Date  
 North Planning Committee  
 29<sup>th</sup> May 2018

Item  
**10**  
 Public

## Development Management Report

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

### SCHEDULE OF APPEALS AS AT COMMITTEE 29<sup>th</sup> May 2018

#### Appeals Lodged

<b>LPA reference</b>	18/02645/REF
<b>Appeal against</b>	Refusal
<b>Committee or Del. Decision</b>	21 <sup>st</sup> September 2017
<b>Appellant</b>	Mr and Mrs R Manning
<b>Proposal</b>	Outline application (access, layout and scale) for the erection of nine dwellings
<b>Location</b>	Land south of The Villas Longford Turning Market Drayton
<b>Date of appeal</b>	12 <sup>th</sup> April 2018
<b>Appeal method</b>	Written Representations
<b>Date site visit</b>	
<b>Date of appeal decision</b>	
<b>Costs awarded</b>	
<b>Appeal decision</b>	

<b>LPA reference</b>	18/02649/REF
<b>Appeal against</b>	Refusal
<b>Committee or Del. Decision</b>	Delegated
<b>Appellant</b>	JRT Developments Ltd c/o Christal Planning Services
<b>Proposal</b>	Approval of reserved matters (layout, appearance, scale and landscaping) pursuant to 14/00790/OUT for residential development of two dwellings (plots 3 & 4)
<b>Location</b>	Plots 3/4 Proposed Residential Development Land Off Bearstone Road Norton In Hales Shropshire
<b>Date of appeal</b>	17 <sup>th</sup> April 2018
<b>Appeal method</b>	Written Representations
<b>Date site visit</b>	
<b>Date of appeal decision</b>	
<b>Costs awarded</b>	
<b>Appeal decision</b>	

<b>LPA reference</b>	17/02611/ENF
<b>Appeal against</b>	Enforcement Action
<b>Committee or Del. Decision</b>	
<b>Appellant</b>	Mr T J Shuker – C/O Mr T Mennell
<b>Proposal</b>	Appeal against Breach of Planning - Without Planning Permission, the erection of a 2 storey structure on land
<b>Location</b>	Land Adj The Warrens Edgebolton Shawbury Shrewsbury Shropshire SY4 4EP
<b>Date of appeal</b>	29.11.17
<b>Appeal method</b>	Written Representation
<b>Date site visit</b>	
<b>Date of appeal decision</b>	23.04.18
<b>Costs awarded</b>	
<b>Appeal decision</b>	Dismissed and Enforcement Notice Upheld

<b>LPA reference</b>	17/03587/FUL
<b>Appeal against</b>	Refusal
<b>Committee or Del. Decision</b>	Delegated
<b>Appellant</b>	Mr D and C Reece – C/O Berrys
<b>Proposal</b>	Outline application for the erection of 2 No dwellings (to include access) (amended scheme)
<b>Location</b>	Proposed Development Adj Stone House Walford Heath Shrewsbury



	Shropshire
<b>Date of appeal</b>	30.04.18
<b>Appeal method</b>	Written Representation
<b>Date site visit</b>	
<b>Date of appeal decision</b>	
<b>Costs awarded</b>	
<b>Appeal decision</b>	

<b>LPA reference</b>	
<b>Appeal against</b>	
<b>Committee or Del. Decision</b>	
<b>Appellant</b>	
<b>Proposal</b>	
<b>Location</b>	
<b>Date of appeal</b>	
<b>Appeal method</b>	
<b>Date site visit</b>	
<b>Date of appeal decision</b>	
<b>Costs awarded</b>	
<b>Appeal decision</b>	

<b>LPA reference</b>	
<b>Appeal against</b>	
<b>Committee or Del. Decision</b>	
<b>Appellant</b>	
<b>Proposal</b>	
<b>Location</b>	
<b>Date of appeal</b>	
<b>Appeal method</b>	
<b>Date site visit</b>	
<b>Date of appeal decision</b>	
<b>Costs awarded</b>	
<b>Appeal decision</b>	

<b>LPA reference</b>	
<b>Appeal against</b>	
<b>Committee or Del. Decision</b>	
<b>Appellant</b>	
<b>Proposal</b>	
<b>Location</b>	
<b>Date of appeal</b>	
<b>Appeal method</b>	
<b>Date site visit</b>	
<b>Date of appeal decision</b>	

<b>Costs awarded</b>	
<b>Appeal decision</b>	

**Appeals determined**

<b>LPA reference</b>	17/02611/ENF	
<b>Appeal against Committee or Del. Decision</b>	Enforcement Action	
<b>Appellant</b>	Mr T J Shuker – C/O Mr T Mennell	
<b>Proposal</b>	Appeal against Breach of Planning - Without Planning Permission, the erection of a 2 storey structure on land	
<b>Location</b>	Land Adj The Warrens Edgebolton Shawbury Shrewsbury Shropshire SY4 4EP	
<b>Date of appeal</b>	29.11.17	
<b>Appeal method</b>	Written Representation	
<b>Date site visit</b>		
<b>Date of appeal decision</b>	23.04.18	
<b>Costs awarded</b>		
<b>Appeal decision</b>	Dismissed and Enforcement Notice Upheld	

<b>LPA reference</b>	17/02585/REF
<b>Appeal against</b>	Refusal
<b>Committee or Del. Decision</b>	Delegated
<b>Appellant</b>	Mr G Sutton – C/O Oligra Town Planning
<b>Proposal</b>	Outline application for the erection of two residential properties following demolition of existing agricultural buildings with the access and layout of the site for consideration as part of this application. The appearance, landscaping and scale are to be dealt with as matters reserved.
<b>Location</b>	Land Adjacent To Dorrington Cottage Pipe Gate Market Drayton Shropshire
<b>Date of appeal</b>	03.10.17
<b>Appeal method</b>	Hearing
<b>Date site visit</b>	
<b>Date of appeal decision</b>	24.04.18
<b>Costs awarded</b>	Costs awarded to Local Authority

<b>LPA reference</b>	17/01870/OUT
<b>Appeal against</b>	Refusal of Planning Permission
<b>Committee or Del. Decision</b>	Delegated
<b>Appellant</b>	Mr and Mrs Chris Jones – C/O ARH Architectural Design
<b>Proposal</b>	Outline application for the erection 1 No dwelling (all matters reserved)
<b>Location</b>	Proposed Dwelling To The South Of Talisman Golf House Lane Prees Heath Shropshire
<b>Date of appeal</b>	23.11.17
<b>Appeal method</b>	Written Representations
<b>Date site visit</b>	
<b>Date of appeal decision</b>	11.05.2018
<b>Costs awarded</b>	
<b>Appeal decision</b>	<b>ALLOWED</b>

<b>LPA reference</b>	
<b>Appeal against</b>	
<b>Committee or Del. Decision</b>	
<b>Appellant</b>	
<b>Proposal</b>	
<b>Location</b>	
<b>Date of appeal</b>	
<b>Appeal method</b>	
<b>Date site visit</b>	
<b>Date of appeal decision</b>	
<b>Costs awarded</b>	
<b>Appeal decision</b>	

<b>LPA reference</b>	
<b>Appeal against</b>	
<b>Committee or Del. Decision</b>	
<b>Appellant</b>	
<b>Proposal</b>	
<b>Location</b>	
<b>Date of appeal</b>	
<b>Appeal method</b>	
<b>Date site visit</b>	
<b>Date of appeal decision</b>	
<b>Costs awarded</b>	
<b>Appeal decision</b>	

<b>LPA reference</b>	
<b>Appeal against</b>	
<b>Committee or Del. Decision</b>	
<b>Appellant</b>	
<b>Proposal</b>	
<b>Location</b>	
<b>Date of appeal</b>	
<b>Appeal method</b>	
<b>Date site visit</b>	
<b>Date of appeal decision</b>	
<b>Costs awarded</b>	
<b>Appeal decision</b>	

<b>LPA reference</b>	
<b>Appeal against</b>	
<b>Committee or Del. Decision</b>	
<b>Appellant</b>	
<b>Proposal</b>	
<b>Location</b>	
<b>Date of appeal</b>	
<b>Appeal method</b>	
<b>Date site visit</b>	
<b>Date of appeal decision</b>	
<b>Costs awarded</b>	
<b>Appeal decision</b>	

<b>LPA reference</b>	
<b>Appeal against</b>	
<b>Committee or Del. Decision</b>	
<b>Appellant</b>	
<b>Proposal</b>	
<b>Location</b>	
<b>Date of appeal</b>	
<b>Appeal method</b>	
<b>Date site visit</b>	
<b>Date of appeal decision</b>	
<b>Costs awarded</b>	
<b>Appeal decision</b>	

<b>LPA reference</b>	
<b>Appeal against</b>	
<b>Committee or Del. Decision</b>	
<b>Appellant</b>	
<b>Proposal</b>	
<b>Location</b>	
<b>Date of appeal</b>	
<b>Appeal method</b>	
<b>Date site visit</b>	
<b>Date of appeal decision</b>	
<b>Costs awarded</b>	
<b>Appeal decision</b>	

<b>LPA reference</b>	
<b>Appeal against</b>	
<b>Committee or Del. Decision</b>	
<b>Appellant</b>	
<b>Proposal</b>	
<b>Location</b>	
<b>Date of appeal</b>	
<b>Appeal method</b>	
<b>Date site visit</b>	
<b>Date of appeal decision</b>	
<b>Costs awarded</b>	
<b>Appeal decision</b>	

**This page is intentionally left blank**



## Appeal Decision

Hearing Held on 14 March 2018

Site visit made on 14 March 2018

**by Beverley Wilders BA (Hons) PgDurb MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 24 April 2018

---

**Appeal Ref: APP/L3245/W/17/3181409**

**Dorrington Cottage Farmhouse, Bearstone Road, Pipegate, Market Drayton TF9 4HD**

- 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 Geoff Sutton against the decision of Shropshire Council.
  - The application Ref 16/05263/OUT, dated 17 November 2016, was refused by notice dated 27 March 2017.
  - The development proposed is described as a windfall residential development of farm outbuildings at Dorrington Cottage Farmhouse.
- 

### Decision

1. The appeal is dismissed.

### Application for costs

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

### Procedural Matter

3. The proposal is for outline planning permission with all matters reserved except for access and layout. Though appearance and scale are reserved matters, proposed floor plans and elevations were submitted with the application and where relevant I have had regard to these in reaching my decision.

### Main Issues

4. The main issues are:
  - whether the site is a suitable location for housing having regard to local and national planning policy;
  - the effect of the proposal on highway safety.

### Reasons

#### *Suitable location for housing*

5. The appeal site comprises land adjacent to Dorrington Cottage Farmhouse. It contains two existing buildings and various other structures, set back from Bearstone Road. With the exception of the adjacent farmhouse and a nearby

building on the opposite side of and further along the road, the site is surrounded by open agricultural fields. Though it is reasonably close to the settlement of Pipegate, it is nevertheless physically detached from it. Whilst I have had regard to evidence presented at the hearing that occupiers of the farmhouse have always felt part of Pipegate, the position of the site relative to the built up area of Pipegate adjacent to the A51 leads me to conclude that the appeal site is located in the countryside and outside of the settlement of Pipegate.

6. The Development Plan for the area comprises the Shropshire Local Development Framework: Adopted Core Strategy March 2011 (CS) and the Shropshire Council Site Allocations and Management of Development (SAMDev) Plan December 2015 (SAMDev). At the hearing the main parties agreed that CS policies CS1, CS4 and CS5 and SAMDev policies MD1, MD3 and MD7a are the relevant development plan policies in relation to housing.
7. These policies seek to direct development in rural areas to be located predominantly in community hubs and community clusters. Though SAMDev policy S11.2(vii) identifies Woore, Ireland Cross and Pipe Gate as a community hub, for the reasons previously stated, I do not consider that the appeal site falls within the settlement of Pipegate.
8. CS Policy CS5 and SAMDev Policy MD7a relate to development in the countryside, allowing for some forms of residential development. At the hearing there was agreement between the main parties that the proposal is not for a residential conversion, for housing to meet evidenced local needs or for an essential agricultural worker, though I note that the appellant's agent stated that the dwellings may well in fact be occupied by local people. The proposal does not fall within any of the permitted categories of residential development within policies CS5 and MD7a and consequently it would be contrary to these policies. At the hearing I heard evidence from the Council, which was not disputed by the appellant, that its development plan policies in relation to housing seek to direct development to the most sustainable locations including an appropriate level within the most sustainable rural locations. I am satisfied that these policies are consistent with the National Planning Policy Framework (the Framework) when taken as a whole.
9. Taking the above matters into consideration, I conclude that the site is not a suitable location for housing having regard to local and national planning policy and the proposal is contrary to CS policies CS1, CS4 and CS5 and SAMDev policies MD1, MD3 and MD7a. As stated, these policies seek amongst other things, to control residential development and to restrict such development in rural locations.

#### *Highway Safety*

10. The proposal includes the formation of a new vehicular access onto Bearstone Road, adjacent to an existing access serving the farmhouse and associated buildings. Bearstone Road is single track width in the vicinity of the appeal site and I was advised at the hearing that it is subject to the national speed limit of 60 mph and that it can be busy with vehicles at certain times of the day. Near to the appeal site the road is generally enclosed by reasonably high hedging located adjacent to the carriageway edge with a large mature tree being positioned adjacent to the road and close to the position of the proposed



access. The appeal site is located close to a crossroads and near to a bend in the road.

11. The Highway Authority raised no objections in principle to the proposal but required the proposed access to be provided with visibility splays of 2.4 metres by 90 metres. At the hearing the main parties agreed that such splays are required and I was advised by the Council that they would be necessary to meet Manual for Streets guidelines.
12. Whilst the submitted site location plan shows visibility splays, it does not appear that they are correctly drawn to scale and they also extend beyond the application site boundary, though at least in part it appears that they would be located on other land owned by the appellant. At the hearing the Council accepted that it may be possible to impose planning conditions on land beyond the application site boundary. However I agree with the Council that it is not clear from the submitted plans and evidence where exactly the visibility splays would be positioned and whether or not they would affect third party land.
13. In the absence of a suitable mechanism to secure the provision and future maintenance of the required visibility splays and having regard to the nature of Bearstone Road, the proposal is likely to have a harmful effect on highway safety by unacceptably increasing the risk of collision due to the proposed access having inadequate visibility. I do not consider that the matter could be addressed by the imposition of a condition requiring additional information to be submitted as suggested by the appellant given that access is a matter to be considered at the outline stage.
14. Taking the above matters into consideration, the proposal would be likely to have an adverse effect on highway safety and is therefore contrary to CS Policy CS6. This policy requires, amongst other things, all development to be safe.

### **Other Matters and Planning Balance**

15. There is disagreement between the main parties as to whether the Council can currently demonstrate a five year housing land supply (5YHLS). At the time that the Council determined the application it considered that a 5YHLS could be demonstrated based on its 2016 Five Year Housing Land Supply Statement (2016 HLSS). This was subsequently updated in 2017 (2017 HLSS) with the more recent 2017 HLSS demonstrating a greater supply than the 2016 HLSS. The appellant's evidence focuses on the 2016 HLSS and questions the robustness of the Council's supply position focusing in particular on sites with planning permission and windfall sites. It was established at the hearing that even if the appellant's evidence based on 2016 figures were to be accepted, this would result in a 5YHLS shortfall of 20 dwellings, a very minor shortfall in the overall context of the 2016 housing land requirement.
16. The Council has produced detailed and compelling evidence regarding its 5YHLS and at the hearing no substantive evidence was produced on behalf of the appellant in response to or to contradict the Council's evidence. In the absence of this and on the basis of the evidence before me, I conclude that the Council can currently demonstrate a 5YHLS and I note that my finding on this issue is consistent with a number of other recent appeal decisions in the area referred to by the Council in its statement.

17. The proposal would provide two additional dwellings and would make a modest contribution to housing supply in the area. It would also provide some modest economic benefits both during the construction phase and afterwards resulting from additional spend in the locality. At the hearing I was advised that should permission be granted construction would be likely to take place quickly and to be carried out using local contractors. The proposal would also result in the removal of the existing buildings on site, some of which are in a somewhat dilapidated state. However I have attached limited weight to this benefit given that the removal of the existing buildings is not wholly dependent on the proposal and given that the proposal would involve the construction of replacement buildings on the site, albeit that they would be likely to have an enhanced appearance when compared to the existing buildings.
18. Whilst there would be some modest social and economic benefits associated with the proposal these would not outweigh that harm that would be likely to be caused to highway safety and by the conflict with the development plan. In accordance with Section 38 (6) of the Planning and Compulsory Purchase Act 2004, and as set out in paragraph 12 of the Framework, development that conflicts with the development plan should be refused unless material considerations indicate otherwise. In this case there are no material considerations which indicate that the proposal should be determined other than in accordance with the development plan.

### **Conclusion**

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

*Beverley Wilders*

INSPECTOR

## **APPEARANCES**

### FOR THE APPELLANT:

David Taylor	Agent
Richard Sutton	Appellant's Son

### FOR THE LOCAL PLANNING AUTHORITY:

Sue Collins	Shropshire Council
Philip Mullineux	Shropshire Council
Dan Corden	Shropshire Council

## **DOCUMENTS SUBMITTED AT THE HEARING**

1. Drawing No: 2016/DC/GS/06A.
2. Copy of SAMDev Policy S11.2(vii).

**This page is intentionally left blank**



---

## Appeal Decision

Site visit made on 22 January 2018

by **Gareth W Thomas BSc(Hons) MSc(Dist) PGDip MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 11<sup>th</sup> May 2018

---

**Appeal Ref: APP/L3245/W/17/3186632**

**Talisman, Golf House Lane, Prees Heath, Whitchurch SY13 3JR**

- 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 Chris Jones against the decision of Shropshire Council.
  - The application Ref 17/01870/OUT, dated 22 April 2017, was refused by notice dated 1 June 2017.
  - The development proposed is for the erection of 1No. dwelling (all matters reserved).
- 

### Decision

1. The appeal is allowed and planning permission is granted for the erection of 1No. dwelling at Talisman, Golf House Lane, Prees Heath, Whitchurch SY13 3JR in accordance with the terms of the application, Ref 17/01870/OUT, dated 22 April 2017, subject to the following conditions:
  - 1) Details of the access, appearance, landscaping, layout, and scale, (hereinafter called "the reserved matters") shall be submitted to and approved in writing by the local planning authority before any development takes place and the development shall be carried out as approved.
  - 2) Application for approval of the reserved matters shall be made to the local planning authority not later than 3 years from the date of this permission.
  - 3) The development hereby permitted shall take place not later than 2 years from the date of approval of the last of the reserved matters to be approved.
  - 4) The development hereby permitted shall be carried out in accordance with the following approved plan: HS010/00 Rev A.
  - 5) No development shall take place until details for the parking of vehicles have been submitted to and approved by the local planning authority. The approved scheme shall be laid out and surfaced prior to the first occupation of the development and thereafter be kept clear and maintained at all times for that purpose.

### Procedural matter

2. The appeal is submitted in outline with all matters reserved for future approval. I have considered the appeal on this basis. A sketch scheme showing proposed

plot arrangements and street scene have been submitted for illustration purposes. I have treated these drawings as illustrative material only.

3. A revised location plan showing a widened frontage area onto the Golf House Lane accompanied the appeal documents. I have considered the appeal on the basis of this revised plan; however as this plan formed part of the appeal particulars, I do not consider that the Council's position has been prejudiced by such consideration.

### **Main Issue**

4. The main issue in this appeal is the effect of the development on the character and appearance of the area.

### **Reasons**

5. The appeal site comprises part of the side garden area to the property known as Talisman, a detached bungalow situated in an extensive plot within the settlement of Prees Heath. The site is bounded by residential development on its northern, southern and western sides with commercial properties to the east. Golf House Lane comprises a loop road that does not have a bound surface but discharges onto the A49 to the east and the Class III Tilstock Lane to the north. The loop road is a private lane that forms a restricted byway serving a large number of properties within the settlement area.
6. It is recognised that the existing pattern of development is one of a mix of single and two storey dwellings situated in generally spacious plots. However, from my observations at the site visit, Talisman is especially spacious and the space that would remain for the plot would be comparable in size to other dwellings in the area.
7. I acknowledge that adopted policies CS6 of the Shropshire Core Strategy (CS) and MD2 of the Site Allocations and Management of Development (SAMDev) Plan amongst other things seeks to ensure that the design of new developments respect and enhance local distinctiveness and responds appropriately to local context in terms of form and layout. However, the policies do not expressly exclude developments on existing gardens provided the character is maintained. In my view there is sufficient curtilage such that the development of this parcel of land would not have a cramped appearance or represent an overdevelopment of the site. I therefore consider that a suitably designed housing scheme comprising a single dwelling would be accommodated without causing unacceptable harm to the character and appearance of the area. Neither do I consider that the proposed development would be overbearing or create an unneighbourly sense of enclosure nor would it dominate the outlook from the adjoining dwelling.
8. Consequently I consider that the proposed development would comply with policies CS6 of the CS and MD2 of the SAMDev Plan. These policies are consistent with section 7 of the National Planning Policy Framework that seeks to ensure developments achieve good design that contribute positively to making places better for people.

### **Conditions**

9. In addition to the standard outline conditions, the Council has suggested that two further conditions be imposed. I have considered the suggested conditions

in the light of the advice contained in the Planning Practice Guidance. Whilst accepting that the provision of parking facilities within the site is necessary in the interests of highway safety and amenity, I do not consider that a condition withdrawing permitted development rights would serve a useful purpose in planning terms.

**Conclusion**

10. For the above reasons and having regard to all other matters raised, this appeal is allowed.

*Gareth W Thomas*

INSPECTOR

**This page is intentionally left blank**





---

## Appeal Decisions

Site visit made on 23 April 2018

by **K Ford MSc MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 15<sup>th</sup> May 2018

---

### **Appeal Ref A: APP/L3245/Z/17/3178032**

#### **Moreton Park Garden Centre, Gledrid, Chirk LL14 5DG**

- The appeal is made under Regulation 17 of the Town and Country Planning (Control of Advertisements) (England) Regulations 2007 against a refusal to grant express consent.
  - The appeal is made by Mr David Lazenby against the decision of Shropshire Council.
  - The application Ref 17/00608/ADV, dated 7 February 2017, was refused by notice dated 25 April 2017.
  - The advertisement proposed is internally illuminated fascia sign.
- 

### **Appeal Ref B: APP/L3245/Z/17/3185432**

#### **Moreton Park Garden Centre, Gledrid, Chirk LL14 5DG**

- The appeal is made under Regulation 17 of the Town and Country Planning (Control of Advertisements) (England) Regulations 2007 against a refusal to grant express consent.
  - The appeal is made by Mr David Lazenby against the decision of Shropshire Council.
  - The application Ref 17/02120/ADV, dated 7 May 2017, was refused by notice dated 7 September 2017.
  - The advertisement proposed is internally illuminated fascia sign.
- 

### **Decisions**

1. Appeal A is dismissed.
2. Appeal B is dismissed.

### **Main Issue**

3. The main issue in both appeals is the effect of the proposed signs on the visual amenity of the area including the Pontcysyllte Aqueduct and Canal World Heritage Site (WHS) buffer zone.

### **Reasons**

4. The Council has drawn my attention to the policies and guidelines it considers to be relevant to this appeal and I have taken them into account as a material consideration where relevant. However, powers under the Regulations<sup>1</sup> to control advertisements may be exercised only in the interests of amenity and public safety, taking account of any material factors. The National Planning Policy Framework (NPPF) and the Planning Practice Guidance (PPG) reiterate this approach. In my determination of this appeal, the Council's policies have not therefore, by themselves, been decisive.

---

<sup>1</sup> The Town and Country Planning (Control of Advertisements) (England) Regulations 2007 (as amended)

5. Whilst amenity is not defined exhaustively within the Regulations, it does indicate that relevant factors include the general characteristics of the locality, including the presence of any feature of historic, architectural, cultural or similar interest. The PPG states that in assessing amenity, the local planning authority would always consider the local characteristics of the neighbourhood: for example, if the locality where the advertisement is to be displayed has important scenic, historic, architectural or cultural features, the local planning authority would consider whether it is in scale and in keeping with these features’.
6. The site is located between the A5 and Chirk Road near to the A5 roundabout, outside of the Pontcysyllte Aqueduct and Canal World Heritage Site (WHS), but on the edge of its buffer zone and in an Area of Special Control of Advertisements. A hotel and restaurant is located to the south of the site and a retail business park to the west. Upon the appeal site and within the immediate vicinity are a number of advertisements. However, these are relatively small in scale and are not unduly prominent. They do not notably impact on the area.
7. The proposal the subject of appeal A would add a large fully illuminated sign above the window panels of the garden centre. The proposal, the subject of appeal B, proposes an alternative option, smaller in scale, with only the letters of the sign illuminated. Both signs would be clearly visible from the access road into the site and from Chirk Road.
8. I acknowledge that both signs would assist in advertising the garden centre from Chirk Road. However, the sign, the subject of Appeal A would be excessive in size and would dominate the particular building on which it would be positioned. Although the size of the lettering may be comparable to the Costa sign beneath, the impact would be greater as the sign would be much larger and illuminated which would exacerbate the size of the sign. The proposal would lead to an excessive cluttered display of advertisement on this part of the building that would dominate the appearance of it and the streetscene.
9. The proposal the subject of appeal B would be smaller in height and width and as only the letters would be illuminated, the overall impact would be less than that proposed in the scheme in appeal A. However, the proposal would still be significant in scale, occupying a notable proportion of the building. The illumination of the lettering would further increase its prominence. Taken with the existing signage this sign would result in visual clutter also.
10. I acknowledge that consideration was given to alternative locations to place the advertisements and that the level of illumination in both signs would be static. I also note the submissions made that the Council has granted permission for similar signs elsewhere. However, I did not see any signs of the scale proposed on my site visit and in any event, each case is dealt with on its own merits. The presence of similar signage elsewhere does not justify harmful advertisements. Conditions restricting the level and hours of illumination would not overcome the harm that I have identified.
11. In light of the above, both signs would have an appreciable harmful visual impact on the building and the locality. They would not however have a harmful impact on the amenity of the WHS given that the signs would not face the WHS and there would not be direct views into or out of it from the appeal site.

12. The appellant cites a number of economic benefits associated with the proposed advertisements. This includes updating the appearance of the building in line with the national branding of the company and promoting what he identifies as a key local employer, to existing and new customers. Whilst I have no reason to doubt the appellant's submissions in respect of these matters, they do not weigh in favour of the proposed signs because I can only consider the interests of amenity and public safety<sup>2</sup>.
13. In light of the foregoing, I conclude that whilst the proposals would not harm the WHS, both proposals would harm the visual amenity of the area. As a consequence both signs would be contrary to the part of Policies CS6 and CS17 of the Shropshire Development Framework: Adopted Core Strategy which requires new development to protect and enhance the diversity, high quality and local character of the natural, built and historic environment, and the parts of Policies MD2 and MD13 of the Shropshire Council Site Allocations and Management of Development Plan which requires new development to contribute to and respect locally distinctive or valued character.

### **Conclusion**

14. For the reasons identified, I conclude that both appeals should be dismissed.

*K Ford*

INSPECTOR

---

<sup>2</sup> Paragraph 67 of the NPPF

**This page is intentionally left blank**



---

# Appeal Decision

by **Elizabeth Jones BSc (Hons) MTCP MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 23 April 2018

---

**Appeal Ref: APP/L3245/C/17/3177623**

**Land at Edgebolton, Shawbury, Shropshire (Title No. SL235326)**

- The appeal is made under section 174 of the Town and Country Planning Act 1990 as amended by the Planning and Compensation Act 1991.
- The appeal is made by Mr Thomas Shuker against an enforcement notice issued by Shropshire Council.
- The enforcement notice, numbered 16/05029/ENF, was issued on 11 May 2017.
- The breach of planning control as alleged in the notice is without planning permission, the erection of a 2 storey structure on the Land identified on the attached photograph.
- The requirements of the notice are:
  - (i) Remove from the Land the 2 storey structure.
  - (ii) Remove from the Land all domestic paraphernalia and services installed in association with the structure.
  - (iii) Return the Land to its former use and condition.
- The period for compliance with the requirements is 3 months.
- The appeal is proceeding on the grounds set out in section 174(2) (e) of the Town and Country Planning Act 1990 as amended. Since the prescribed fees have not been paid within the specified period, the appeal on ground (a) and the application for planning permission deemed to have been made under section 177(5) of the Act as amended have lapsed.

**Summary Decision: The appeal is dismissed and the enforcement notice upheld with correction.**

---

## The Enforcement Notice

1. Paragraph 6 of the notice 'Time for compliance' makes reference to a fourth requirement (i.e. 5(iv)). Paragraph 5 of the notice 'What you are required to do' includes requirements numbered (i), (ii) and (iii). These 3 requirements are referred to in the Council's statement of case. I therefore consider the reference to a fourth requirement to be a typographical error which I can correct by deleting the reference to a fourth requirement without causing injustice.

## The appeal on ground (e)

2. Ground (e) is concerned with whether the enforcement notice was properly served as required by s172(2) of the 1990 Act. This provides that a copy of an enforcement notice shall be served (a) on the owner and on the occupier of the land to which it relates; and (b) on any other person having an interest in the land, being an interest which, in the opinion of the authority, is materially affected by the notice.

3. The appellant maintains that as the notice was served on a Mr Ian James Shuker, the notice is invalid. In a ground (e) appeal the burden of proof is firmly on the appellant and the test is the balance of probability.
4. The Council's unchallenged statement is that following a Land Registry search the notice was served on Mr Thomas James Shuker, 8 Castle Lane, Bayston Hill, Shrewsbury SY3 0NJ as the sole owner of the land by first class Recorded Delivery. A copy of the notice was also sent to the Owner/Occupier. Apart from the absence of a middle name, the appellant's details at section A on the appeal form are the same as those used by the Council in its service of the notice. These details are also the same as the addressee details contained in the covering letter served with the notice and on the first page of the notice. Thus, the requirements of s329 1(c) of the Act were satisfied.
5. Given the evidence, I do not consider that the reference to a Mr Ian James Shuker as an interested party at the end of the notice, which the Council states is an error, makes the notice invalid as suggested by the appellant. It is clear that the appellant has been able to make an appeal in the required timescale. Therefore, I can correct the notice without causing injustice by correcting this error by deleting the reference to Mr Ian James Shuker. Moreover, there is no evidence of any substantial prejudice. The appeal on ground (e) therefore fails.

### **Formal Decision**

6. It is directed that the enforcement notice be corrected as follows:
  - 1) The deletion from paragraph 6 'Time for compliance' the words "and 5(iv)".
  - 2) The deletion of the words "Ian James Shuker, 8 Castle Lane, Bayston Hill, Shrewsbury, ST3 0NJ" from the last line of the section titled 'Guidance Notes' attached to the enforcement notice.
7. Subject to these corrections the appeal is dismissed and the enforcement notice is upheld.

*Elizabeth Jones*

INSPECTOR