

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

Date: Monday, 18th May 2020

Committee: Northern Planning Committee

Date: Wednesday, 27 May 2020

Time: 2.00 pm

Venue: THIS IS A VIRTUAL MEETING

Members of the public will be able to listen to this meeting by clicking on this link: [Click this link to view the meeting](#)

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You are requested to attend the above meeting.

The Agenda is attached

Claire Porter

Director of Legal and Democratic Services

Members of the Committee

Roy Aldcroft
Nicholas Bardsley
Gerald Dakin
Pauline Dee
Nat Green
Vince Hunt (Vice Chairman)
Mark Jones
Pamela Moseley
Keith Roberts
Paul Wynn (Chairman)
David Vasmer

Substitute Members of the Committee

Joyce Barrow
Ted Clarke
Julian Dean
Steve Davenport
Roger Evans
Rob Gittins
Roger Hughes
Chris Mellings
Paul Milner
Peggy Mullock
Alexander Phillips

Your Committee Officer is:

Emily Marshall Committee Officer

Tel: 01743 257717

Email: emily.marshall@shropshire.gov.uk



AGENDA

1 Apologies for Absence

To receive apologies for absence.

2 Minutes (Pages 1 - 4)

To confirm the Minutes of the meeting of the Northern Planning Committee held on 3rd March 2020, attached, marked 2.

Contact: Emily Marshall on 01743 257717

3 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, 22nd May 2020.

4 Disclosable Pecuniary Interests

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

5 Glovers Meadow, Oswestry, Shropshire, SY10 8NH (19/04688/FUL) (Pages 5 - 18)

Change of use of land to provide business base/residential accommodation for a local family of travelling show people

6 Carolines, 1A English Walls, Oswestry, Shropshire, SY11 2PA (19/05193/FUL) (Pages 19 - 30)

Installation of new shop front and internal alterations

7 Car Park, The Shirehall, Abbey Foregate, Shrewsbury, Shropshire (20/00660/VAR) (Pages 31 - 40)

Variation of condition no 1 (timescale) pursuant to 17/06119/FUL to allow for an extension in temporary permission until February 2022

8 Pauls Moss Community Room, Pauls Moss, Whitchurch, SY13 1HH (20/01284/FUL) (Pages 41 - 102)

Redevelopment to include conversion of house to form cafe/community hub and flats; erection of 71 sheltered residential apartments; erection of health centre building; landscaping scheme including removal of trees; formation of car parking spaces and alterations to existing vehicular access

9 Appeals and Appeal Decisions (Pages 103 - 118)

10 Date of the Next Meeting

To note that the next meeting of the Northern Planning Committee will be held at

2.00 pm on Tuesday 23rd June 2020.

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Committee and Date

Northern Planning Committee

27th May 2020

NORTHERN PLANNING COMMITTEE

Minutes of the meeting held on 3 March 2020

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

2.00 - 2.46 pm

Responsible Officer: Emily Marshall

Email: emily.marshall@shropshire.gov.uk Tel: 01743 257717

Present

Councillor Paul Wynn (Chairman)

Councillors Roy Aldcroft, Nicholas Bardsley, Gerald Dakin, Pauline Dee, Nat Green, Vince Hunt (Vice Chairman), Mark Jones, Keith Roberts, David Vasmer and Ted Clarke (Substitute) (substitute for Pamela Moseley)

86 Apologies for Absence

Apologies for absence were received from Councillor Pamela Moseley (substitute: Councillor Ted Clarke).

87 Minutes

RESOLVED:

That the Minutes of the meeting of the North Planning Committee held on 4th February 2020 be approved as a correct record and signed by the Chairman.

88 Public Question Time

There were no public questions, statements or petitions received.

89 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.

90 Land North of Abbey Farm, Ash, Whitchurch, Shropshire (19/03488/FUL)

The Principal Planning Officer introduced the application for the erection of a temporary agricultural workers dwelling.

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:

- The applicant wanted to farm in a traditional way and specialised in small, rare breeds;
- The plans were ambitious and the family needed to be on site to support animal welfare; and
- The proposed dwelling was temporary and both he and the Parish Council supported the proposals which were exciting and educational.

Councillor John Dodd, on behalf of Whitchurch Rural Parish Council spoke in support of the proposal in accordance with Shropshire Council's Scheme for Public Speaking at Planning Committees.

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

During the ensuing debate Members praised the scheme, commenting that it was a good example of diversification and ensuring the sustainability of small farm, the proposals would also have wider community benefits in terms of community interest, education and economic benefits. The Committee also acknowledged that the applicant had confirmed that they would be prepared to limit the dwelling to a maximum of 100 square meters.

Having considered the submitted plans and listened to the comments made by all of the speakers, Members felt that they could support the proposals, and authorised the Head of Planning Services to grant planning permission, subject to the receipt of amended plans, indicating a dwelling of a maximum of 100 square meters and appropriate conditions.

RESOLVED:

That determination of the application be delegated to the Head of Planning Services to grant planning permission, subject to:

- Receipt of amended plans, indicating a dwelling of a maximum of 100 square metres; and
- The following conditions, for 3 years lifetime, in accordance with the approved plans, standard agricultural workers dwelling occupancy and conditions as recommended by the SC Ecologist in relation to landscape mitigation, ecological clerk of works, bat and bird box installation, lighting plan – bats.

91 Land East Of The Dexters, Shrewsbury Road, Market Drayton, Shropshire, TF9 3PR (19/05586/FUL)

Councillor Paul Wynn, as the local ward Councillor vacated the Chair for consideration of this application.

Councillor Vince Hunt, as Vice-Chairman, chaired the meeting for this application.

The Technical Specialist Planning Officer introduced the application for the erection of a general purpose agricultural building.

Councillor Paul Wynn read out comments against the application, on behalf of Moreton Say Parish Council in accordance with Shropshire Council’s Scheme for Public Speaking at Planning Committees.

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

- It was his view that the proposals were not sustainable;
- Three acres was not viable; and
- It was situated on a very busy road.

Holly Walker, Agent on behalf of the applicant spoke in support of the proposal in accordance with Shropshire Council’s Scheme for Public Speaking at Planning Committees.

Having considered the submitted plans and listened to the comments made by all of the speakers, Members expressed their support for the proposal.

RESOLVED:
That planning permission be granted subject to the conditions set out in Appendix 1.

92 Plas Thomas Farm, Dudleston, Ellesmere, Shropshire (19/03658/FUL)

The application was withdrawn before consideration by the Committee.

93 Appeals and Appeal Decisions

The Committee thanked Officers for their work in the area of appeals.

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

94 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, 31st March 2020, in the Shrewsbury/Oswestry Room, Shirehall, Shrewsbury.

Signed (Chairman)

Date:

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Committee and Date
 Northern Planning Committee
 27th May 2020

Item
5
 Public

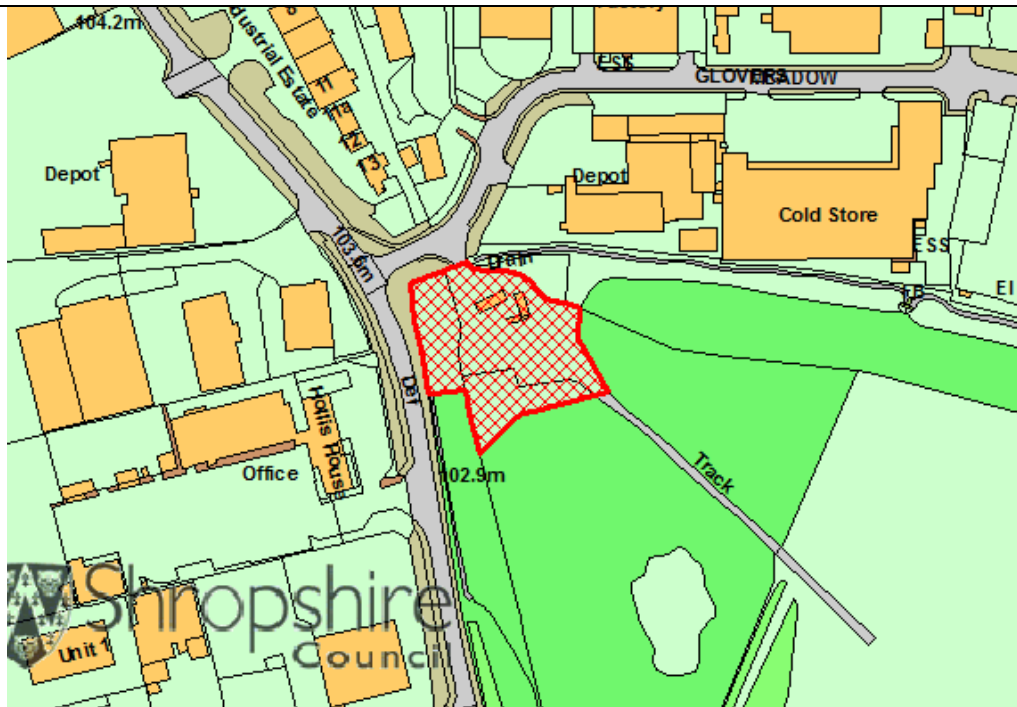
Development Management Report

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

Summary of Application

Application Number: 19/04688/FUL	Parish: Oswestry Town
Proposal: Change of use of land to provide business base/residential accommodation for a local family of travelling show people	
Site Address: Glovers Meadow Oswestry Shropshire SY10 8NH	
Applicant: Shropshire Council (Asset Management)	
Case Officer: Mark Perry	email: planning.northern@shropshire.gov.uk

Grid Ref: 329991 - 328360



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

Recommended Reason for Approval

REPORT**1.0 THE PROPOSAL**

- 1.1 The submitted application seeks planning permission for the change of use of a vacant parcel of land, formally used as a Household Recycling Centre, it then received consent to be used for the display and sale of caravans in 2014 and more recently, the site has been vacant. The proposed use is to provide accommodation for a local family of Travelling Show people. The family require a mixed use residential and business base to both live on and to store and maintain their fairground equipment.
- 1.2 Since 2015 the family have been occupying the grounds of the former Ifton Heath Primary School is St Martins after they had to leave the former livestock market site in Oswestry pending its redevelopment. A temporary planning permission was granted for the Ifton Heath School site to allow time for a more permanent base to be found. Since 2015 there has been successive extensions to the temporary planning permission up until the present time.

2.0 SITE LOCATION/DESCRIPTION

- 2.1 The site extends to 0.397 hectares is located on the southern side of Oswestry in an area that is dominated by industrial units. The site consists of a large hard surfaced area. The application site lies at the northern most part of a triangular section of land along the western side of which runs the Schedule Ancient Monument of Wat's Dyke. The existing access to the site is just off the junction with Maesbury Road and Glovers Meadow.

3.0 REASON FOR COMMITTEE DETERMINATION OF APPLICATION

- 3.1 The applicant is Shropshire Council, therefore in accordance with the Council's Constitution the application must be determined by the Planning Committee.

4.0 COMMUNITY REPRESENTATIONS

- 4.1 Town Council- application was considered by the Development and Planning Committee on Wednesday 13th November 2019, RESOLVED no observations.
- 4.2 Drainage- no objection subject to conditions requiring details of foul and surface water drainage.
- 4.3 Highways- No objection

- 4.4 Historic England- Historic England has no objection to the application on heritage grounds.
- 4.5 Archaeology- Subject to Historic England not raising any concerns on this occasion, it is advised that we have no further comments to make in respect of this application.
- 4.6 Ecology- no objection subject to conditions and informatives.
- 4.7 Public Protection- No objection subject to a conditions to provide noise attenuation works.

4.2 **Public Comments**

- 4.2.1 15 letters of objection received commenting on the following issues:

Large number of vehicle movements passing the site.

Safety risk because of HGV movements on industrial estate

Health risk of former refuse tip

Site not suitable for residential use.

Impact of noise pollution from existing industrial units

Inappropriate site

24 hours movement of vehicles

Health and Safety implications

Plant and machinery operating 24 hours a day

The land should be for business use.

5.0 **THE MAIN ISSUES**

- Policy & principle of development
- Suitability of proposed site
- Layout of site
- Impact on local area and neighbours amenities
- Access and highway issues
- Drainage
- Other matters

6.0 **OFFICER APPRAISAL**

6.1 **Policy & Principle of Development**

- 6.1.1 This application is to use the site for a single family of travelling show. Travelling show people are defined in the Planning Policy for Traveller Sites (PPTS) (2015) as being:

“Members of a group organised for the purposes of holding fairs, circuses or

shows (whether or not travelling together as such). This includes such persons who on the grounds of their own or their family's or dependants' more localised pattern of trading, educational or health needs or old age have ceased to travel temporarily, but excludes Gypsies and Travellers" [these are defined separately]

6.1.2 The status of the Stokes family as travelling show people was accepted during the planning permissions granted for their existing site at the former Ifton Heath Primary School in St Martins. The permission granted was specific to Mr Stokes and his family which consist of his wife, brother and two sons and their families. Prior to moving to St Martins the family occupied a site at the Smithfield Livestock Market in Oswestry for a number of years but had to relocate due to approval being granted for the site's re-development.

6.1.3 The family's current site in St Martins has only ever had temporary planning permissions as it was known that the site would be likely to be redeveloped, as it is one of the preferred allocations identified as part of the Local Plan Review process with an approximate capacity of 35 dwellings.

6.1.4 As detailed on the submitted block plan the accommodation requirements are for 5 caravans and therefore meeting the 4 plots proposed for travelling show people within the North West of Shropshire that is identified by policy CS12 of the Core Strategy. There is an identified need for the site, as set out in the Gypsy and Traveller Accommodation Assessment (GTAA) which has been produced to underpin the ongoing Local Plan Review process. The GTAA specifically identifies a need for a permanent Travelling Showpersons' site to accommodate existing residents.

6.1.5 The Governments Planning Policy for Traveller Sites document states that,

"Local planning authorities should have regard to the need that travelling showpeople have for mixed-use yards to allow residential accommodation and space for storage of equipment",

it goes on to state that,

"Local planning Authorities should not permit mixed use on rural exception sites".

This therefore restricts the location of such sites to those settlements that are identified in the adopted SAMDev Plan.

6.2 **Suitability of proposed site**

6.2.1 The application site is located at the heart of Oswestry main industrial/ employment area. The application site and the wider area is allocated as a Protected Employment Area in the adopted SAMDev plan. Policy MD9 aims to protect

existing employment areas for Class B and appropriate sui generis employment uses.

- 6.2.2 Class B uses include uses such as offices, research and development, industrial uses and storage and distribution. The proposed use is not solely one of the uses falling within the B class. However, saying that there are some similarities as the proposed use does involve the movement of HGVs, the operation and storage of heavy machinery and its repair and maintenance.

The Planning Policy for Traveller Sites specifically recognises that “plots” for “travelling showpeople” are different to “pitches” for “gypsies and travellers”. Travelling show people require mixed-use sites plots as they, “may / will need to incorporate space or to be split to allow for the storage of equipment”.

- 6.2.3 As such any potential site for the travelling show people needs to have good access to the highway network and a large open space within which to accommodate the vehicles and equipment. It also needs to be located where there is minimal impact upon the amenities of neighbouring occupiers. The nature of the equipment and size and type of vehicles used by the travelling show people would constitute an inappropriate use in an area that is predominantly residential.
- 6.2.4 As the proposed use of any plot also includes the family’s static caravans as their living space there is also a residential element to the scheme. As such there is also a sustainability objective to make sure that there is good access to local services and facilities. Policy CS12 (Gypsy and Traveller Provision) supports development of such sites in locations that are close to the Market Towns and Key centres.
- 6.2.5 Due to the site’s former use as the town’s household recycling centre the site is already hard surfaced. This means that the use of this part of the site would require no further hardstanding. Only very limited built development would be required to enable the occupation of the site. The only development that would be required is the erection of amenity blocks which would be subject to a separate planning application. The applicant has indicatively indicated that these will be modular buildings. The DCLG, in 2008 produced design guidance for Gypsy and Traveller Sites which suggests that, among other things, there must be an amenity building on each site and that this must include, as a minimum:
- Hot and cold water supply;
 - Electricity supply;
 - A separate toilet;
 - A bath/shower room; and
 - A kitchen and dining area
- 6.2.6 It is considered that in terms of policy the proposed site meets a number of policy objectives. It is a site that can accommodate the movement and storage of the large vehicles and associated fairground equipment and it is also in a sustainable location where those occupying the site can easily access the shops and services that Oswestry has to offer. The proposed use is also a mixed commercial/

residential use and therefore it does comply with elements of policy MD9 which seeks to protect areas of employment. The nature of the proposed use is a significant material consideration which does weight in favour of utilising this area of allocated employment land. The creation of a plot for travelling showpeople is, in principle, considered to be an appropriate sui generis use for the site.

6.3 Visual Impact

- 6.3.1 The site benefits from hedge planting along the side of Maesbury Road and there is a more substantial group of tree planting around the southern side of the site providing screening. Views are possible into the site from Glovers Meadow but this is through the existing access. The bulk and massing of static caravans along with HGV's and fair ground equipment would be substantially less than the imposing and dominant appearance of some of the surrounding commercial units.
- 6.3.2 Policy CS6 seeks to ensure that development is designed to a high quality respecting and enhancing the local distinctiveness.
- 6.3.3 Policy CS12 requires all gypsy and traveller developments (which includes those for Travelling Showpeople) to incorporate suitable design and screening and the Planning Policy for Traveller Sites document requires sites to be well planned in such a way as to positively enhance the environment by not enclosing a site with hard landscaping or high fences. The site is already enclosed with fencing and hedge boundary which will help to limit the view of the development. In order to screen the site and its contents as much as possible additional mixed species hedgerow planting will be provided along the boundaries adjacent to the road junction.
- 6.3.4 It is considered that the existing and proposed planting will provide sufficient screening to limit any significant adverse impacts. The application site must also be looked within the context of the surrounding industrial development; much of which is not softened by tree planting or sympathetic landscaping.
- 6.3.5 The fairground equipment spends most of the year being moved from fair to fair and it is not within the occupier's interest to have equipment sat around unused and not making money. As such it is likely that for the majority of the time that there will not be any fair equipment on site. Although some equipment will occasionally be on site this is not a regular occurrence and the equipment will normally be out travelling between fairs and shows.
- 6.3.6 The number of caravans on the site will be limited to only the five static caravans which will meet the specified family's requirements. It is not the intention of the application for the site to accommodate any other gypsies or travellers not associated with the family of travelling show people. Any permission granted would be conditions so that it restricts the number of caravan and also to make the permission specific to the particular family concerned.
- 6.3.7 It is considered that the use of this site would meet the sustainable criteria in

paragraph 13 of the PPTS. The site provides the opportunity for the occupants to have a settled base and enable the family to continue to access local health services and other facilities. Paragraph 26 of the PPTS also advised that the local planning authority should attach weight to the effective use of previously developed, untidy or derelict land.

6.4 Impact on local area and neighbours amenities

- 6.4.1 There are no other residential properties in close proximity to the site, in any case the Planning Department has not been made aware of any complaints arising during the travelling show person's already lengthy occupation of the site in St Martins which is a site that is in close proximity to other dwellings.
- 6.4.2 In contrast to the St Martins site, the application site is entirely surrounded by other commercial premises. Many of which of which operate 24 hours a day and have HGVs operating within their sites and also entering and leaving their sites. Accordingly the HGVs also pass the entrance to the application site as they head to/ from the main highway network.
- 6.4.3 A number of the surrounding buildings also operate plant and machinery such as refrigeration and air conditioning units. The impact of this equipment on the future residents of the application site has been raised by a number of the surrounding businesses and also the Council's Public Protection Officer. In order to allow the Planning Authority to fully consider any impact an independent noise assessment has been produced. The report identified that there are several potential noise sources which include road traffic noise, car parks, fixed plant and service yard activity/ HGV movements.
- 6.4.4 Paragraph 180 of the NPPF states that, "decisions should also ensure that new development is appropriate for its location taking into account the likely effects (including cumulative effects) of pollution on health, living conditions and the natural environment, as well as the potential sensitivity of the site or the wider area to impacts that could arise from the development. In doing so they should:
- a) mitigate and reduce to a minimum potential adverse impacts resulting from noise from new development – and avoid noise giving rise to significant adverse impacts on health and the quality of life"
- 6.4.5 The noise assessment report concludes that, taking into account the recommended noise mitigation measures, the residents of the proposed traveller site would not be exposed to unacceptable levels of noise". The mitigation measures proposed include a 2.5m tall acoustic barrier and the siting the caravans further back into the site away from the industrial/ commercial activity.
- 6.4.6 The submitted report has been assessed by the Council's Public Protection officer who raised no objection subject to the proposed noise attenuation measures being implemented.

6.5 Impact on Heritage Assets

6.5.1 The site is adjacent to part of Wats Dyke. The Dyke is a scheduled ancient monument therefore no works should be undertaken that impact upon this monument. The western part of the application site includes part of the scheduled section of the Dyke. It is therefore important that the area of the dyke within the application site is not built over or disturbed so as to retain the physical continuity of the dyke as a linear monument in the landscape, and also preserve any buried archaeology related to it.

6.5.2 The application has been considered by Historic England and the Council's archaeologist, neither of which raise any objection to the proposed development.

6.6 **Access, highway and drainage issues**

6.6.1 The site will use the existing access which formally served the household recycling centre and caravan sales. It is likely that the former uses would have created a much greater frequency of vehicle movements to and from the site than the proposed use will generate. The site has good levels of visibility at the access and an appropriate width of access to accommodate the movements of the types of vehicles referred to earlier in this report.

6.6.2 A number of representations from the surrounding businesses have commented on the safety of the travelling showpeople because of potential conflict between any pedestrians and the large number of heavy good vehicles which operate in the immediate area.

6.6.3 Paragraph 108 of the NPPF set out that when considering development proposals it should be ensured that safe and suitable access to the site can be achieved for all users and that developments have appropriate opportunities to promote sustainable transport modes given the type of development and its location. Paragraph 110 goes on to set out the criteria for development which includes creating places that are safe, secure and attractive – which minimise the scope for conflicts between pedestrians, cyclists and vehicles.

6.6.4 The application site is located on the entrances to Glovers Meadow. Glovers Meadow is a no-through road which only serves as the access to a number of industrial units; the occupiers of the application site would therefore have no reason to venture further along Glovers Meadow and therefore occupants are not likely to encounter vehicles manoeuvring into service yards or any other industrial activities that pose a potential risk.

6.6.5 On the opposite side of the road to the entrance of the site, there is a designated shared cycle/ pedestrian path leading towards the town centre. This will ensure that any pedestrians have a safe route to the nearby supermarkets and other services and facilities in the town.

6.6.6 It is considered therefore that the access and adjoining junction is of a satisfactory layout to accommodate the vehicle movements and will not compromise the safety of highway users. It is also considered unlikely that the proposal would create

conflict or safety concerns between the proposed use and the surrounding industrial uses. The NPPF advises that development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe. It is not considered by Officers that there would not be sufficient concerns about the safety of highway users, which includes any pedestrians and cyclists to sustain a reason for refusal.

6.7 Land Contamination

- 6.7.1 The application site was the former Household Recycling Centre (HHRC) and is immediately adjacent to the former Maesbury Road landfill site, which closed in October 1991. Therefore, the site has been identified as potentially contaminated land. Detailed investigations as part of a previous project by the Environment Agency demonstrated a low rate of gas generation within the landfill, internal gas pressures within the waste are extremely low and coupled with the land-raise form and leachate/groundwater within the lower levels within the waste mass, would make lateral gas migration into the surrounding strata a very low risk.
- 6.7.2 The former HHRC is fenced off and separate to the former landfill site with no access onto the landfill except through locked gates which are used by the Environment Agency and a tenant farmer who grazes sheep on the former landfill. The proposed development site is covered in hardstanding and this will remain acting as a barrier to any underlying potential contamination.

7.0 CONCLUSION

- 7.1 Overall the development is considered to comply with the requirements of policy CS12 of the Shropshire Core Strategy, the site is close to the proposed services and facilities in Oswestry. The scale of the development is considered to be acceptable and would not result in any harm to the character of the area. It has been adequately demonstrated that the existing operations of the surrounding premises would not detrimentally impact upon the living conditions of those occupying the application site.
- 7.2 The unmet need for a site for travelling show people within Shropshire also needs to be given weight in the determination of this application.
- 7.3 It is officers' opinion that there is no harm resulting from the use of the application site for the single family, the application is therefore recommended for approval.

8.0 RISK ASSESSMENT AND OPPORTUNITIES APPRAISAL

8.1 Risk Management

There are two principal risks associated with this recommendation as follows:
As with any planning decision the applicant has a right of appeal if they disagree with the decision and/or the imposition of conditions. Costs can be awarded irrespective of the mechanism for hearing the appeal - 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 1990.

9.0 FINANCIAL IMPLICATIONS

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

10. Background

Relevant Planning Policies

Central Government Guidance:

West Midlands Regional Spatial Strategy Policies:

Core Strategy and Saved Policies:

CS6 - Sustainable Design and Development Principles

CS12 - Gypsies and Traveller Provision

CS17 - Environmental Networks

MD2 - Sustainable Design

MD9 - Protecting Employment Areas

MD13 - Historic Environment

RELEVANT PLANNING HISTORY:

OS/04/13336/OUT Use of land for a pallet storage yard and for repair of pallets. GRANT 27th August 2004

OS/08/15805/FUL Proposed extension to loading bay GRANT 17th December 2008

OS/07/14833/CMA Alterations to household recycling centre to meet health and safety requirements by relocating recycling facilities, providing additional vehicle circulation space and a new route through the site requiring the removal of an existing hedgerow and trees and surfacing of additional areas (and retention of existing office building) WDN 23rd November 2007

12/03938/FUL Proposed change of use to residence and base for travelling showpeople WDN 7th November 2012

14/00369/COU Change of use from refuse tip to sale of static and touring caravans GRANT 9th April 2014

14/03964/MAW Installation of plant comprising a bio-oxidation unit for a temporary period as part of a landfill gas treatment operation GRANT 16th December 2014

SC/MO2007/14833/OS Changes to the Household Recycling Centre to meet Health and Safety requirements by relocating recycling facilities, providing additional vehicle circulation space and a new route through the site requiring the removal of an existing hedgerow and trees and surfacing of additional areas (and retention of existing office building) WDN 22nd November 2007

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) Councillor Gwilym Butler
Local Member Cllr John Price Cllr Clare Aspinall
Appendices

APPENDIX 1 - Conditions

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

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

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

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

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

CONDITION(S) THAT REQUIRE APPROVAL BEFORE THE DEVELOPMENT COMMENCES

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

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

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

4. No more than 10 caravans, as defined in the Caravan Sites and Control of Development Act 1960 and the Caravan Sites Act 1968 (of which no more than 5 shall be a static caravan or mobile home) shall be stationed on the site at any time.

Reason: In the interests of visual amenities.

5. This consent does not permit the commercial operation of any of the travelling show equipment on the application site.

Reason: To protect residential and visual amenities.

6. The scheme for the noise attenuation of the development recommended in the noise assessment report by Hepworth Acoustics dated January 2020 Ref P16-689-R01v1 (received 17th March 2020), shall be completed prior to the occupation of the site and thereafter retained.

Reason- to protect the residential amenity of those occupying the site.

7. Any exterior security or decorative lights shall be less than 3 m from the ground and fitted with hoods to direct the light below the horizontal plane, at an angle of less than seventy degrees from vertical, and shall not be fixed to, or directed at, bat boxes or gables or eaves. Lighting must be less than 3 lux at ground level and there shall be no light splay exceeding 1 lux along buildings, eaves or roof or adjacent hedgerows or trees. Any lighting shall be Passive Infrared (PIR) triggered.

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

8. Landscaping shall be completed in accordance with the landscaping plan (received 6th November 2019). All landscaping shall be completed within 12 calendar months of commencement of the development. Any trees or shrubs which die or become seriously damaged or diseased within five years of completion of the development shall be replaced within 12 calendar months with trees of the same size and species.

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

9. The residential use of the site hereby permitted shall be limited to Mr Stokes and his resident dependents only.

Reason: To control the occupation of the site in accordance with adopted policy and on the basis of the personal circumstances of the applicant and the status of the site.

Informatives

1. 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 and scrub removal and/or 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 for active bird nests should be carried out. If vegetation cannot be clearly seen to be clear of nests

-



Committee and Date
 Northern Planning Committee
 27th May 2020

Item
6
 Public

Development Management Report

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

Summary of Application

Application Number: 19/05193/FUL	Parish: Oswestry Town
Proposal: Installation of new shop front and internal alterations	
Site Address: Carolines 1A English Walls Oswestry Shropshire SY11 2PA	
Applicant: Beleva Ltd	
Case Officer: Melanie Williams	email: planning.northern@shropshire.gov.uk

Grid Ref: 328992 - 329480



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Recommendation:- Refusal for the following reason:

The development is considered inappropriate in relation to the location, in that it would have a significant adverse impact upon the existing integrity of the non-designated heritage asset, in respect of the proposed fenestration, parapet and render, which would completely alter the characteristics of the existing appearance of the building, as well as removing and obscuring fabric of significance such as the existing first floor sash windows and brickwork that currently makes a positive contribution to the existing character and appearance of the surrounding conservation area. The proposal is therefore contrary to Policy CS6, CS17, MD2 and MD13 of the local plan and paragraphs 192, 196 and 197 of the National Planning Policy Framework.

REPORT**1.0 THE PROPOSAL**

1.1 Installation of new shop front and internal alterations *and change of use of the first floor*

1.2 Since the previous committee consideration amended plans have been received altering the glazing detail on the frontage and amending the description of the proposal to include the change of use of the 1st floor.

2.0 SITE LOCATION/DESCRIPTION

2.1 Located with the centre of Oswestry, Church Street, Festival Square and English Walls is a mixed use area boasting residential units, professional services and public houses. The ground floor at no. 1A English Walls was most recently used as a cake shop and patisserie (Caroline's) and has been vacant for some months. The locality boasts much local design character, and falls within the Oswestry Conservation Area.

3.0 REASON FOR COMMITTEE DETERMINATION OF APPLICATION

3.1 This application does not meet the criteria for delegated decisions as set out in the Council's adopted 'Scheme of Delegation' given the support from the Parish Council, which is contrary to the officer's recommendation. The application was considered at the Council's Planning Committee Agenda Setting Meeting and deemed appropriate to be heard by the Planning Committee.

4.0 Community Representations

- Consultee Comments

Shropshire Council Conservation:

Object – These comments supplement those previously submitted on 9/12/19, where there were objections to the proposed alterations to the existing front principal elevation of a non-designated heritage asset that lies within the Oswestry Conservation Area, where it is considered that the proposal would consist of 'less than substantial harm', where it would harm the character and appearance of the existing conservation area as well as harm and detriment to the existing non-

designated heritage asset.

Comments made by the North Planning Committee are noted, where members consider that the proposal's design is not 'in keeping'.

The proposed revised plans have been consulted, where the principal design of the proposal remains broadly the same albeit tweaks to the proposed fenestration where there is the introduction and reconfiguration of the glazing bars. It is considered that these amendments do not overcome the principal concerns of the proposal, where it would still result in a significant intervention to the elevation of the building and thereby the existing character and appearance of the existing non-designated heritage asset and removal of historic fabric that would also be detrimental and harmful to the character and appearance of the immediate setting of the conservation area.

Therefore previous objections are upheld, where it is still considered that the proposal is harmful to a non-designated heritage asset and therefore contrary to paragraph 197 of the NPPF and policy MD13 of SAMDev as well as being harmful to the character and appearance of the conservation area and thereby contrary to paragraphs 192 and 196 (where it is considered to consist of 'less than substantial harm') of the NPPF, policies CS6 and CS17 of the Core Strategy and MD13 of SAMDev, as well as the principles set out in the Oswestry Conservation Area Appraisal (loss of traditional locally distinctive materials and features).

Shropshire Council Drainage:

No comments

Shropshire Council Archeaology

No comments

- Public Comments

Oswestry Town Council:

Support – *The Council support this application and were pleased to see the quality of the design as proposed. It was felt that the development would add value to the location.*

5.0 THE MAIN ISSUES

- Principle of development
- Siting, scale and design of structure
- Visual impact and landscaping

6.0 OFFICER APPRAISAL

6.1 Principle of development

6.1.1 Section 38(6) of the Planning and Compulsory Purchase Act 2004 states that all

planning applications must be determined in accordance with the adopted development plan ‘unless material considerations indicate otherwise’.

- 6.1.2 Paragraph 11 of the National Planning Policy Framework builds on this wording by encouraging planning to look favourably upon development, unless the harm that would arise from any approval would significantly and demonstrably outweigh the benefits when assessed against the policies of the Framework as a whole.
- 6.1.3 The National Planning Policy Framework (‘NPPF’) has been published by national government and represents guidance for local planning authorities. It is a material consideration to be given weight in the determination of planning applications.
- 6.1.4 Paragraph 8 of the NPPF makes it clear that the planning system should support development from an economic perspective (amongst other objectives), ‘to help build a strong, responsive and competitive economy, by ensuring that sufficient land of the right types is available in the right places and at the right time to support growth, innovation and improved productivity; and by identifying and coordinating the provision of infrastructure’.
- 6.1.5 This is expanded upon within Part 6 of the NPPF, ‘Building a strong, competitive economy’, stating that ‘significant weight should be placed on the need to support economic growth and productivity, taking into account both local business needs and wider opportunities for development’ (Paragraph 80). In addition, Local Planning Authorities are encouraged to ‘set out a clear economic vision and strategy which positively and proactively encourages sustainable economic growth’ (Paragraph 81).
- 6.1.6 Policy CS13 of the Shropshire Core Strategy indicates support for Shropshire’s Market Towns, developing their role as key service centres, providing employment and a range of facilities and services accessible to their rural hinterlands in accordance with Policy CS3, which indicates balanced housing and employment development of an appropriate scale and design that respects each town’s distinctive character and is supported by improvements in infrastructure.
- 6.1.7 Policy MD2 of the SAMDev on Sustainable Design indicates for development proposals to be considered acceptable development must respond positively to local design aspirations and contribute to and respect local distinctive or valued character.
- 6.1.8 Policy MD13: The Historic Environment in the SAMDev states that Shropshire’s heritage assets will be protected, conserved, sympathetically enhanced and restored by ensuring that where ever possible proposals avoid harm or loss of significance to designated or non-designated heritage assets, including their settings and that ensuring that proposals which are likely to have an adverse effect on the significance of a non-designated heritage asset, including its setting will only be permitted if it can be clearly demonstrated that the public benefits of the proposal outweigh the adverse effect.

6.1.9 Paragraph 195 of the NPPF states:

‘Where a proposed development will lead to substantial harm to (or total loss of significance of) a designated heritage asset, local planning authorities should refuse consent, unless it can be demonstrated that the substantial harm or total loss is necessary to achieve substantial public benefits that outweigh that harm or loss, or all of the following apply:

- a) the nature of the heritage asset prevents all reasonable uses of the site; and
- b) no viable use of the heritage asset itself can be found in the medium term through appropriate marketing that will enable its conservation; and
- c) conservation by grant-funding or some form of not for profit, charitable or public ownership is demonstrably not possible; and
- d) the harm or loss is outweighed by the benefit of bringing the site back into use’.

6.1.10 Paragraph 3.132 in support of Policy MD13 states Heritage assets are buildings, monuments, sites, places, areas or landscapes that merit consideration as part of the planning process. The term includes all designated and non-designated assets and makes reference to ‘Conservation Areas’ as a designated asset.

6.1.11 The acceptability of the development therefore rests upon any identified material planning considerations.

6.2 Economic Consideration

6.2.1 The development of economic uses, including cafés and restaurants, is encouraged within town centres. Policy CS15: Town and Rural Centres reinforces this by encouraging development which positively contributes to the mix and diversity of uses within town centres, without undermining their primary retail function. Church Street and Festival Square exhibits a mixture of uses, including; retail, residential, business and drinking establishments.

6.2.2 The premises although currently vacant is historically classed as a mixed use. In 1975 planning permission was granted for change of use of the 1st floor as a café area ancillary to the retail use at ground floor (labelled as ‘Shop’ on the submitted plans with the 75 application). Previously to this the ground floor was used as a hairdressing salon (also A1 use) with residential at first floor. The most recent use of the premises prior to being vacant was as a cake shop and patisserie, with the first floor seemingly unused. In light of the time that has passed since this application it is not too straight forward to classify the existing use of the premises especially at first floor. The use operating from the site would seem to be A1 at ground floor with the first floor not being used. The proposal drawings submitted with the present application would appear to show the existing use for both ground floor and 1st floor as a café i.e. A3 use.

6.2.3 Initially the application only included the exterior work and no change of use. However since the previous committee consideration the agent has requested that the description of the proposal be changed to *Installation of new shop front, internal*

alterations and change of use of the first floor

- 6.2.4 Oswestry is recognised within SAMDev policy MD10a: Managing Town Centre Development as a settlement with a recognised Town Centre with Primary and Secondary Shopping Areas. The policy states that within the Secondary Frontage Areas additional main town centre uses will be acceptable where they would maintain an active and continuous frontage and would not result in an over concentration or undue dominance of non-retail uses.
- 6.2.5 The site is set within a secondary shopping frontage within Oswestry Town Centre and represents a non-retail A1 use. It is also recognised that the building is vacant and its use as cafe would reintroduce an active frontage to this vacant unit. It is further recognised that the proposal would not result in an over concentration or undue dominance of non-retail uses at this location as there is a healthy amount of A1 outlets located in close proximity to the site. A3 and A4 premises are intermingled throughout the area however this does not appear to have been to the detriment of the main shopping area of Oswestry.
- 6.2.6 It is felt in light of this that this use would be welcomed in this location; it would bring a vacant unit back into use and re-introduce further vitality to this part of Oswestry Town Centre. The Local Authority are not looking to discourage the re-use of Town Centre premises to promote a healthy local economy and vibrant town centre. Therefore the principle of the use in this location would be acceptable.
- 6.2.7 Therefore with regard the present application the main issue that would arise therefore is only in terms of its design within the location proposed.

6.3 Visual impact

- 6.2.1 SAMDev Policy MD2 ‘Sustainable Design’ and Core Strategy Policy CS6 ‘Sustainable Design and Development Principles’ requires development to be designed to a high quality by being sustainable in its design, inclusive and accessible in its environment and respecting and enhancing local distinctiveness. Furthermore, development is required to preserve and enhance the amenity value of the wider area to which it relates including the safeguarding of residential and local amenity.
- 6.2.2 Paragraph 127 of the revised NPPF reinforces that developments should be ‘sympathetic to local character and history, including the surrounding built environment and landscape setting, while not preventing or discouraging appropriate innovation or change’.
- 6.2.3 The proposal affects a non-designated heritage asset that lies within the Oswestry Conservation Area, and adjacent 29-31 Church Street, which are grade II listed. The surrounding built environment is characterised by mostly 2 storey buildings with 3 storey in the vicinity on Church street; again mostly clad in red brick with some in painted render; many with traditional shop fronts at ground floor and sash windows to the first floor.

<facing NW>



<facing SW>



<facing SE>



6.2.4 The existing building is constructed in red brick with slate tiles, it is a considered a

non-designated heritage asset.



It is felt the proposal would deface and remove features of significance that characterise the building and Oswestry Conservation Area. Thereby unacceptably altering features that currently make a positive contribution to the existing character and appearance of the conservation area.

- 6.2.5 The scheme would introduce a prominent and discordant design in terms of the excessive glazing proposed to the frontage as well as the large company lettering to be fixed above the first floor window. Amended plans have been received since the last consideration by committee which reduce the size of the glazing to the new stairway and adding of glazing bars to the windows on the frontage. However the changes are relatively minor and do not address the concerns of the Local Planning Authority; the glazing is still considered excessive and the addition of glazing bars would clutter the frontage.
- 6.2.6 An additional amendment from the original is that the proposed materials and finishing has been altered from dark render to dark painted brick with dark rain water goods. Predominantly the buildings in the area are constructed using dark red brick with some buildings in white or cream render.
- 6.2.7 Apart from being described as dark the actual colour of the finishing has not been specified and again as per the render depending on the shade would dramatically alter the appearance of the premises. If the scheme were to be successful this colour choice would be pivotal and therefore should be a pre-development condition on any approval notice.
- 6.2.8 Therefore cumulatively (and indeed separately) and depending on the colour choice these proposals would not be considered in keeping with the existing structure and would dominate and overpower views of the adjacent listed buildings and other heritage assets in the area plus the surrounding built vernacular.
- 6.2.9 The design of the scheme although results in a modern frontage to the proposed café building that would be attractive and acceptable in some locations. It is felt

however that this part of Oswestry Town Centre is not one of them, the proposal is alien and out of keeping with the surrounding vernacular.

7.0 CONCLUSION

7.1 The Local Planning Authority supports development that promotes Shropshire as an attractive location for enterprises to establish themselves, grow and prosper for the benefit of the vitality of the local area and wider Shropshire county. However, it is felt that this scheme would be inappropriate visually in this location as it is considered not in keeping with the surrounding premises, Oswestry Town Centre Conservation Area and local vernacular.

7.2 The proposal is therefore considered to be contrary to the requirements of Policy CS6 'Sustainable Design and Development Principles' of the Shropshire Core Strategy, Policy MD2 'Sustainable Design' of the Shropshire Site Allocations and Management of Development (SAMDev) Plan and Central Government advice contained in the National Planning Policy Framework. The recommendation is therefore one of refusal for the following reason:

The development is considered inappropriate in relation to the location in that it would have a significant adverse impact upon the existing integrity of the non-designated heritage asset, in respect of the proposed fenestration, parapet and potential colour, which would completely alter the characteristics of the existing appearance of the building, as well as removing and obscuring fabric of significance such as the existing first floor sash windows and brickwork that currently makes a positive contribution to the existing character and appearance of the surrounding conservation area. The proposal is therefore contrary to Policy CS6, CS17, MD2 and MD13 of the local plan and paragraphs 192, 196 and 197 of the National Planning Policy Framework

8.0 Risk Assessment and Opportunities Appraisal

8.1 Risk Management

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

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

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

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

8.2 Human Rights

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

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

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

8.3 Equalities

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

9.0 Financial Implications

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

10. Background

Relevant Planning Policies

Central Government Guidance:

West Midlands Regional Spatial Strategy Policies:

Core Strategy and Saved Policies:

RELEVANT PLANNING HISTORY:

13/01593/ADV Erect and display 1no fascia sign GRANT 27th June 2013
19/05193/FUL Installation of new shop front and internal alterations PCO

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) Councillor Gwilym Butler
Local Member Cllr Paul Milner
Appendices None

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Committee and Date
 Northern Planning Committee
 27th May 2020

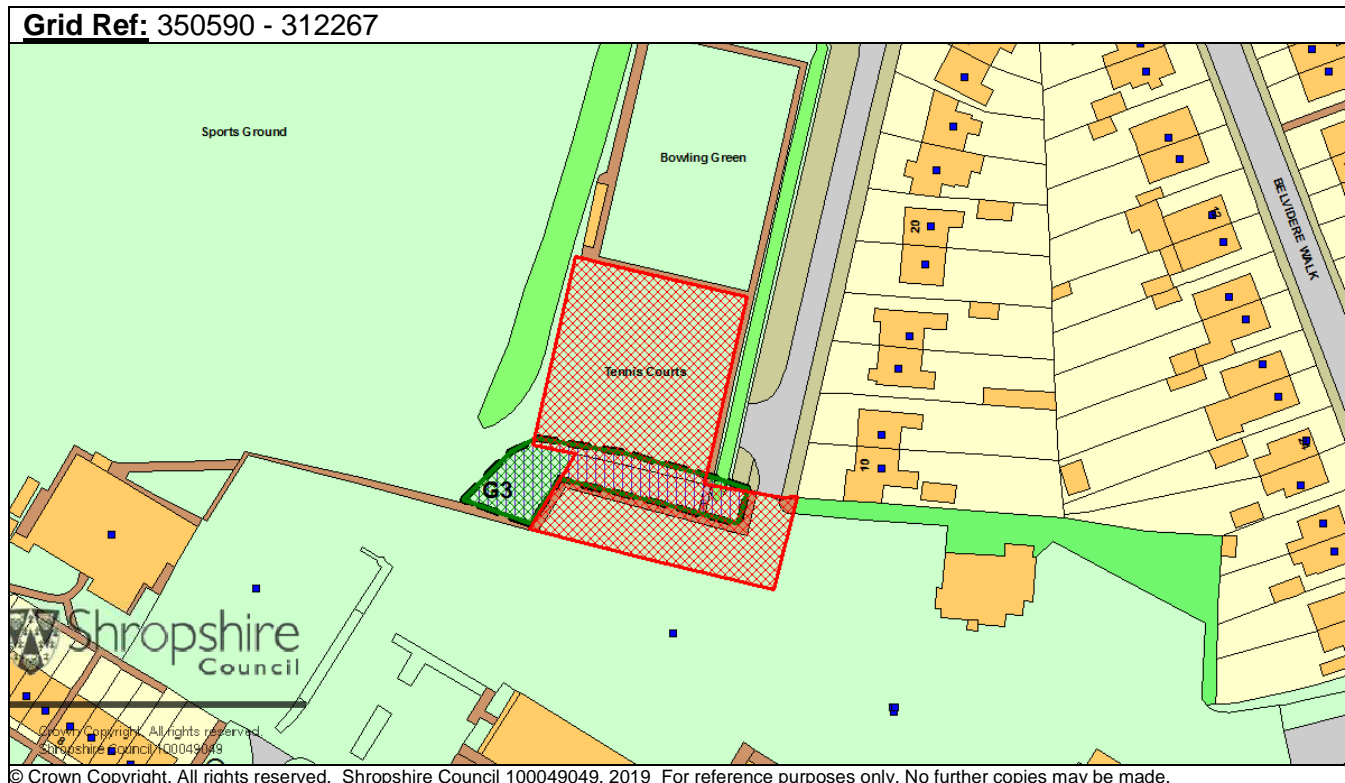
Item
7
 Public

Development Management Report

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

Summary of Application

Application Number: 20/00660/VAR	Parish:	Shrewsbury Town Council
Proposal: Variation of condition no 1 (timescale) pursuant to 17/06119/FUL to allow for an extension in temporary permission until February 2022		
Site Address: Car Park The Shirehall Abbey Foregate Shrewsbury Shropshire		
Applicant: Shropshire Council		
Case Officer: Shannon Franklin	email: planning.northern@shropshire.gov.uk	



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

- 1.1 The application seeks planning permission for the variation of condition No.1 pursuant to 17/06119/FUL. Condition No.1 currently reads as follows;

The development hereby permitted shall be for a limited period being the period of 2 years from the date of this permission. At the end of this period the development hereby permitted shall cease.

Reason: To enable the provision and implementation of a full car parking strategy and travel plan for the wider site of Shirehall, which considers more travel options, and assesses the optimum and most sustainable level of parking provision.

- 1.2 The variation of condition sought will enable the continued use of the application site as a car park, associated with the Shirehall, for an extended temporary period up until February 2022.

2.0 SITE LOCATION

- 2.1 The application relates to an existing area of car parking which prior to temporary permission being granted, accommodated 2no.tennis courts. The site is situated to the north of the existing main Shirehall car park within the area of Belvidere approximately 1.6km to the east of Shrewsbury town centre.
- 2.2 The site is bounded to the north by a bowling green, to the east by Belvidere Road on the opposite side of which are semi-detached residential properties, to the south by a 6m wide grass verge and pavement beyond which lies Shirehall's existing car park and to the east by recreational playing fields.
- 2.3 The site is bounded by a chain link fence with the vehicular access from Shirehall car park on its southern boundary.

3.0 REASON FOR COMMITTEE DETERMINATION OF APPLICATION

- 3.1 The application is made by the Council on land owned by the Council for development which is not in line with statutory functions and is therefore required to be determined by Committee under the terms of the scheme of delegation to officers as set out in Part 8 of the Council Constitution.

4.0 COMMUNITY REPRESENTATIONS**4.1 - Consultee Comments**

- 4.1 **Shrewsbury Town Council – 16.03.2020 – No objection.**

- 4.2 **SC SUDS – 24.03.2020 – No comments.**

4.3 SC Highways – 27.02.2020 – No objection.**4.4 SC Parks and Recreation – 18.02.2020 – No comments.****4.2 - Public Comments**

4.2.1 This application was advertised via notice at the site and the Councils website. Additionally, the residents of fourteen neighbouring properties were notified by way of publication of this application. At the time of writing this report, one representation had been received in response to this publicity from the Shropshire Playing Fields Association. This comment is provided in full below:

4.2.2 Shropshire Playing Fields Association – 28.02.2020 – Objection

Shropshire Playing Fields Association objects to the proposed loss of two community tennis courts whose purpose has been to enhance the health and well-being of their own workforce their families and members of the surrounding local community.

There is no indication from the application that Shropshire Council intend replacing or providing similar facilities nearby, so we can only assume they intend ignoring government planning policy and that this will be another loss of valued community open space, without compensation to the local community.

These two tennis courts make 25 tennis courts either lost or under serious threat of being lost in and around Shrewsbury in recent years.

- Shrewsbury Academy: (Sundorne Site) - 4 tennis courts lost replaced by classrooms.
- Shrewsbury Academy: (Grange Site) - 4 tennis courts under threat of being sold for future housing development.
- Shrewsbury Sixth Form College; (Castle walk Site) - 4 tennis courts at castle walk disused waiting to be developed.
- Radbrook College - 4 tennis courts recently replaced by housing
- Priory School - 4 tennis courts replaced by classrooms
- Shelton Hospital - 2 tennis courts replaced by housing
- Shrewsbury hospital - 1 tennis court replaced by carpark

Shrewsbury has also lost or is likely to lose considerable amounts of community open spaces to development at:

- Greenfields Recreation Ground
- Copthorne Barracks site
- Shrewsbury Football Club Community football pitch
- Meole Brace School; Grass sports pitch
- Castle Walk; loss of community access to sport pitches enclosed by security fencing.
- Meole Brace Pitch and Putt Golf Course
- Remans Bowls and Cricket club

The proposal to erode even more open space social facilities at the Shirehall and

use it for car parking, we believe goes against national and local planning guidelines and policy.

The people of Shrewsbury including its young people are currently experiencing an obesity crisis that is putting immense pressure on the health service increasing levels of physical activity is one crucial tool being used to combat the problem, whether it be playing sport, walking or cycling to school or work.

This application if approved will only encourage more usage of the car by providing 50 more car parking space, reducing numbers opting to cycle and walk to work whilst also denying access for people to a diminishing stock of open spaces and accessible facilities, this makes no sense and is certainly not a sustainable proposal.

We believe this application poses a real threat to the whole future of this open space area and rather than it be destroyed and lost forever it should in fact be considered a jewel in the crown worthy of future investment by Shropshire Council.

In addition, we draw officers and members attention to;

Paragraph 73 of the NPPF states that:

"Access to high quality open spaces and opportunities for sport and recreation can make an important contribution to the health and well-being of communities. Planning policies should be based on robust and up-to-date assessments of the needs for open space, sports and recreation facilities and opportunities for new provision. The assessments should identify specific needs and quantitative or qualitative deficits or surpluses of open space, sports and recreational facilities in the local area. Information gained from the assessments should be used to determine what open space, sports and recreational provision is required".

Quite simply after many years of being asked Shropshire Council planning authority has still not provided a robust up-to-date assessment as is required under national planning policy guidelines, so have no data available upon which officers or members can make an informed decision.

Shropshire Council's current Local Plan (2006-2026) comprises of the Core Strategy (2011) and the Site Allocations and Management of Development of Adopted Plan (SAMDev 2015).

Policy CS6 - seeks to ensure that all development contributes to the health and wellbeing of communities, this includes safeguarding residential and local amenity and the achievement of local standards for the provision and quality of open space, sport and recreational facilities.

Clearly replacing two community tennis courts for the purpose of parking a car does not contribute to the health and well-being of the local community.

Policy CS8 seeks to ensure the protection and enhancement of existing facilities and services that contribute to quality of life.

Clearly the protection of existing sporting facilities is not being adhered to in this instance and indeed the need to enhance the facilities for the benefit of its own staff over recent years has also not been adhered to even though Shropshire Council are responsible for doing so in respect of this piece of land.

Policy CS9 - Infrastructure Contributions; The immense amount of development that has taken place over the past decade and is proposed to continue through the advancement of the nearby development off Preston Street would suggest there is a need for more open spaces to be retained for their purpose and for some of the CIL money from these developments to be invested in the enhancement of existing open space infrastructure to support these developments.

To-date we note Shropshire Council has not spent any community infrastructure levy funds on new sport facilities - to remove existing facilities without providing new facilities is in our opinion in conflict with planning policy.

We also believe the application would be against the proposed integrated transport plan which is encouraging more sustainable options like cycling and walking as a main option for staff to access the workplace.

5.0 THE MAIN ISSUES

- 5.1
 - **Principle of development**
 - **Other matters**

6.0 OFFICER APPRAISAL

6.1 Principle of development

- 6.1.1 The application seeks to vary the existing condition no.1 implemented on the planning permission 17/06119/FUL to enable the continued use of the site as additional parking for staff and visitors to the Shirehall.
- 6.1.2 The key determining policies of the development plan are as previously considered and are primarily Policy CS8 Facilities, Services and Infrastructure Provision and Policy CS7 Communications and Transport. Policy CS8 aims to develop sustainable places in Shropshire and maintain and enhance existing services and facilities. In addition, the policy seeks to ensure timely provision of additional facilities, services and infrastructure to meet identified needs.
- 6.1.3 Policy CS7 acknowledges the need to support development which enables the provision of a sustainable pattern of development including maintenance and improvement of transport and infrastructure and services. This policy also confirms that integrated transport infrastructure and services to meet local needs should aim to minimise the impacts of transport and traffic on communities and the environment.
- 6.1.4 At the point of determination of the previous application on site, it was indicated that a temporary period of parking was required in order to enable the provision and implementation of a full car parking strategy and travel plan for the wider site of Shirehall, which considers more travel options, and assesses the optimum and

most sustainable level of parking provision. Additionally, it was considered necessary to restrict the time frame of the permission to two years such that in the event that the use of the site ceased, the site could potentially be returned to use as tennis courts for recreation purposes.

- 6.1.5 Planning permission for use of the site as additional car parking was approved on 16th February 2018 and the subsequent discharge of conditions application (referenced 18/02547/DIS) approved on 19th June 2018. The construction works associated with implementing the permission were undertaken in July 2018 and the parking spaces brought into use shortly after. At the time of writing, the application site has therefore been in use as additional car parking for a period of approximately 22 months.
- 6.1.6 Since the approval of the planning permission, an independent survey investigating staff commute and business travel habits was undertaken in spring 2018. This work informed the Council's Scope 3 greenhouse gas emission data for the Corporate Climate Change Strategy (CCCS) and set out interventions to reduce these, as well as assisting with any future development. The key recommendations made include the creation of an active travel plan and enrolling an active travel officer. The submitted planning statement indicates that measures have been implemented to secure these improvements however, at present there is a continued need for additional parking provision at Shirehall.
- 6.1.7 As such, whilst Officers accept that the provision of additional car parking facilities at the proposed site does not directly provide an integrated and sustainable transport package, the variation of condition to allow the site's continued use as car parking, addresses the short term identified local need for additional parking. This in turn enables continued work on production and implementation of the Council's full car parking strategy, as well as implementation of more agile working practices which may reduce parking demand on site. The variation of condition no.1 is therefore supported on this basis.

6.2 Other matters

- 6.2.1 One comment in objection to the variation has been received from a representative of Shrewsbury Playing Fields Association which raises a concern over the loss of this tennis court together with other developments within the wider Shrewsbury area.
- 6.2.2 A range of recreational and sporting facilities are available locally, including Monkmoor Recreational ground 0.95km to the northeast, London Road Sports Centre and associated grounds 0.95km to the southeast, Shrewsbury Cricket Club 1.1km to the southeast and more immediate informal open space and playing field off Peace Drive 550m to the east. There are also privately-operated facilities for a range of sports within the locality and public open spaces for more informal play and recreation.
- 6.2.3 Officers are advised that no interested parties have contacted the Council with regards to needing access to a tennis court to operate, nor for development of a specialist sports pitch. As such at present there is no direct demand for the site to operate as a sports facility.

- 6.2.4 It is therefore considered that on balance, the continued use of the application site as temporary car parking, for a period up to 28th February 2022 is acceptable as whilst the loss of a sports facility is regrettable, it was not in use at the time of the original approval and had not been for some time and there is currently no identified demand for its return to a sports facility. Upon termination of the temporary period, the minor works undertaken to the site; line painting and formation of a vehicular access, do not prevent its reinstatement to a tennis court or sports pitch.
- 6.2.5 Having reviewed the proposal and the continued use of the site for car parking, Officers consider that with regards to visual impact of the proposal, reduction of on-street parking in the locality and relatively scale of the scheme the proposal is acceptable and the variation of the condition as proposed enabling the continued use of the site for a further two year period, would not demonstrably alter the outcomes of the previous approval on site.
- 6.2.6 Therefore, officers conclude that the identified benefits of the proposal; the reduction in on street parking within the vicinity, the limited scale of the development and lack of additional hardstanding proposed, and the proposal enabling a full review and more sustainable provision of transport and parking facilities at Shirehall, outweigh the limited harm associated with the continued loss of 2no.tennis courts.

7.0 CONCLUSION

- 7.1 The variation of condition No.1 on planning permission 17/06199/FUL to allow for continued use of the site for car parking up until 28th February 2022 is considered to be acceptable in this instance when considering the cumulative benefits of the proposal. This temporary permission will enable further works to be conducted in producing a full car parking strategy and travel plan for the Shirehall and therefore is considered to be in accordance with the overarching aims of the relevant policies including CS6 and CS8 and approval is therefore recommended.

8.0 Risk Assessment and Opportunities Appraisal

8.1 Risk Management

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

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

of Judicial Review must be made a) promptly and b) in any event not later than six weeks after the grounds to make the claim first arose.

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

8.2 Human Rights

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

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

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

8.3 Equalities

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

9.0 Financial Implications

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

10. Background

Relevant Planning Policies

Central Government Guidance:

- National Planning Policy Framework

Core Strategy Policies:

- CS6 - Sustainable Design and Development Principles
- CS7 - Communications and Transport

- CS8 - Facilities, Services and Infrastructure Provision
- CS17 - Environmental Networks

Shropshire Council Site Allocations and Management of Development (SAMDev) Plan:

- MD2 - Sustainable Design

RELEVANT PLANNING HISTORY:

17/06119/FUL Change of use of former tennis courts to form additional council staff car parking for a temporary period of up to 2 years. GRANT 16th February 2018

20/00660/VAR Variation of condition no 1 (timescale) pursuant to 17/06119/FUL to allow for an extension in temporary permission until February 2022 PDE

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) Councillor Gwilym Butler
Local Member Cllr. Hannah Fraser
Appendices APPENDIX 1 - Conditions

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

1. The development hereby permitted shall be for a limited period up to 28th February 2022. At the end of this period the development hereby permitted shall cease.

Reason: To enable the provision and implementation of a full car parking strategy and travel plan for the wider site of Shirehall, which considers more travel options, and assesses the optimum and most sustainable level of parking provision.

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

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



Committee and date	Item
27 th May 2020	Public

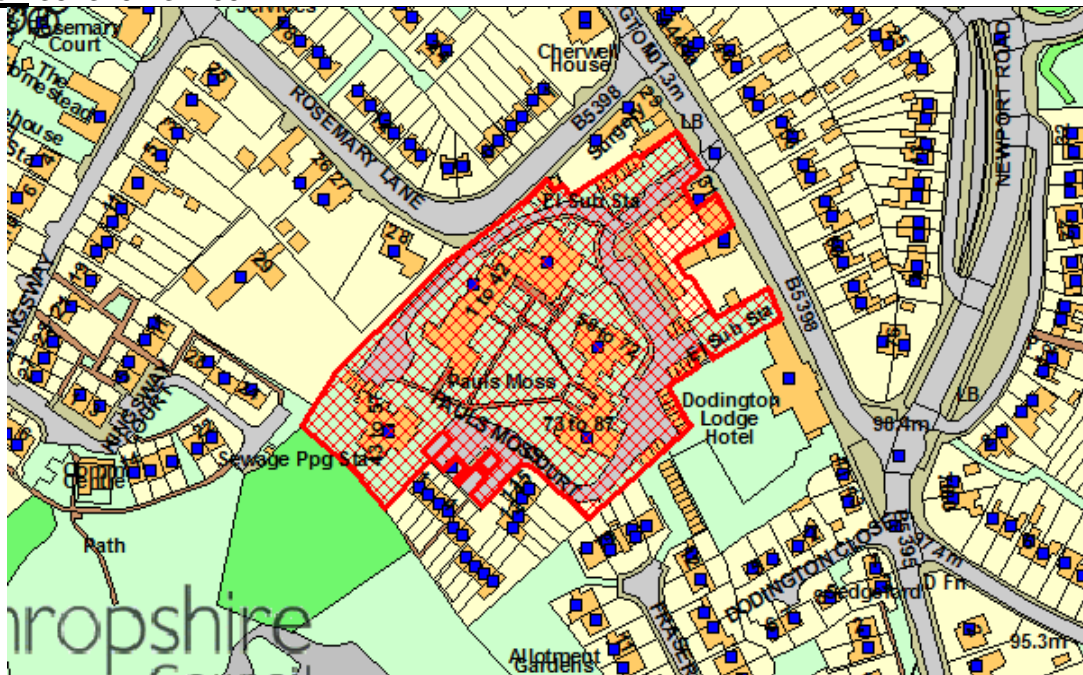
Development Management Report

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

Summary of Application

Application Number: 20/01284/FUL	Parish:	Whitchurch Urban
Proposal: Redevelopment to include conversion of house to form cafe/community hub and flats; erection of 71 sheltered residential apartments; erection of health centre building; landscaping scheme including removal of trees; formation of car parking spaces and alterations to existing vehicular access		
Site Address: Pauls Moss Community Room Pauls Moss Whitchurch SY13 1HH		
Applicant: Ms Jane Kind		
Case Officer: Philip Mullineux	email: planning.northern@shropshire.gov.uk	

Grid Ref: 354329 - 341094



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REPORT

Recommendation: Delegate approval to the Planning Service Manager subject to the conditions as set out in appendix 1 attached to this report and any amendments as considered necessary to these conditions by the Planning Service Manager.

1.0 THE PROPOSAL

- 1.1 The application is made in 'Full' and proposes re-development of Pauls Moss, Dodington, Whitchurch, with retention of Pauls Moss House, demolition of existing sheltered housing accommodation and general needs flats and proposed new build Extra Care apartment scheme, health centre and conversion of Pauls Moss House to flats and a community hub. The proposal includes provision for the delivery of 71 units of supported housing for the over 55's and linked shared use space and 83 on site car parking spaces
- 1.2 The application is accompanied by a set of proposed elevation and floor plans, existing elevation and floor plans, landscaping plan, block plan, site location plan, planning statement, design and access statement, tree survey, noise impact assessment, highway transport assessment and travel survey, Pauls Moss House impact assessment, visual impact assessment, flood risk assessment, ecological appraisal, design and access statement, desk based assessment, levels strategy, landscape strategy, drainage strategy, site photographs and 3 dimensional views plans.
- 1.3 The proposed development is not considered to meet any of the criteria of the schedules of The Town and Country Planning (Environmental Impact Assessment) Regulations 2017 and as such an Environmental Statement in support of the application is not considered necessary.
- 1.4 The development as proposed was subject to pre-application advice dated 27th July 2018, (reference PREAPP/18/00245) the conclusion of which stated:

'The site for the proposed development is located in planning policy terms within a designated development area within a town, where the principle of re-development is considered acceptable subject to satisfactory consideration to issues as discussed in this letter.

Clearly 'Paul's Moss house' is considered a significant non-designated heritage asset and its retention on site is to be preferred. Any application which includes provision for demolition of Paul's Moss House will need to adequately demonstrate the overall benefits of its demolition and any replacement building will need to be of high quality in both design and construction. Has any consideration been given to retaining the Paul's Moss House on site and re-configuration its internal layout, as the dwelling is not presently a designated listed building and as such there is no overall protection in relation to internal fittings? (The site visit though did reveal the entrance hall and stairwell to be construction of considerable interest and worthy of preservation.

Also of concern is provision of open space requirements and it is concluded that this area needs re-looking at in order to be in-line with relevant local plan policies on this matter.

Demolition and replacement of the remaining structures on site, (fairly recent in construction), is considered acceptable subject to any re-development being in keeping with the prevailing built theme and design of the surrounding area.

The principle in relation to the 'health business use on site as indicated appears acceptable in principle as any retailing appears to be in relation to the core principle of the development, i.e. dispensing chemist and hairdresser in relation to occupants of the proposed complex).

This advice is given in the context of your request and the information provided in support and has regard to the Council's planning policy. Should you wish to submit a planning application I would recommend that this advice is taken into account. However this advice is offered without prejudice to any future decision the Council may make following the formal consideration of a planning application'

- 1.5 A previous application for development on site, (Council reference 19/03861/FUL), for :Re-development to include conversion of house to form cafe/community hub and flats; erection of 71 sheltered residential apartments; erection of health centre building; landscaping scheme including removal of trees; formation of car parking spaces and alterations to existing vehicular access was approved by Committee subject to conditions in accordance with the Officer recommendation, the minutes of the October 15th 2019 meeting confirming: (This application is now subject to a claim for Judicial review).

'That authority be delegated to the Planning Services Manager to approve the application subject to:

- The conditions as outlined in Appendix 1;*
- Any modifications to these conditions as considered necessary by the Planning Services Manager; and*
- The rewording of Condition 3 as detailed on the Schedule of Additional Letters'.*

- 1.6 The current application is a resubmission of this previous approved application, which is currently subject to judicial review proceedings. Councillors are advised not to treat the previous application as a material consideration in favour of the grant of planning permission in the determination of the current application.

Prior to the above application, an earlier application (Council reference 18/05901/FUL) was refused on 28th June 2019 for the following reasons:

- 1. The boundary of the Whitchurch Conservation Area was drawn to incorporate the Pauls Moss mansion when designated in 1987 and this building is considered specifically to make a positive contribution to the character and appearance of the conservation area by virtue of its design, detailing, historic character and visual significance within the site. The proposed demolition of the Pauls Moss house would cause total loss of a non-designated heritage asset and substantial harm to the significance of the Conservation Area which*

is a designated heritage asset. Whilst the community benefits of the scheme are acknowledged insufficient justification has been provided in order to justify the substantial harm to a designated heritage asset. Therefore the application does not comply with the National Planning Policy Framework and in particular paragraphs 192, 193, 194 and 195 and Policy CS6 of the Shropshire Core Strategy and Policies MD2 and MD13 of the SAMDev.

- 2. The application proposes development of a scale and mass that is considered to represent over development of the site, incongruous to the built form and urban grain of the surrounding area, which will therefore have an overbearing detrimental impact on the character of the surrounding area. The design and external construction materials of the development are not considered to provide any enhancement to the surrounding Conservation Area. As such the development is considered contrary to Policies CS3 and CS6 of the Shropshire Core Strategy, Policies MD2 and MD13 of the SAMDev, the National Planning Policy Framework and Section 72(i) of the Planning (Listed Buildings and Conservation Areas) Act 1990 in relation to the Conservation Area.*
- 3. The application proposes insufficient open space and landscaping provision on a site considered overdevelopment. Further still it has not been adequately demonstrated that off-site provision and connectivity can be provided as indicated in information submitted in support of the application. The application is considered contrary to Policies CS6, CS9 and CS17 of the Shropshire Core Strategy, Policies MD2, MD8, MD12 and S18 of the SAMDev and the National Planning Policy Framework.*
- 4. The application does not provide adequate mitigation/compensation for loss of trees on site, many of which are considered worthy of retention and contribute positively to the character of the location and the Conservation Area. The application is considered contrary to Policies CS6 and CS17 of the Shropshire Core Strategy, Policies MD2 and MD12 of the SAMDev and the National Planning Policy Framework on this matter.*

2.0 SITE LOCATION/DESCRIPTION

- 2.1 The site is located to the south of Whitchurch town centre and within the recognised development boundary of the town, in part of the designated Conservation Area. On site is a recognised non-designated heritage asset in the form of Pauls Moss Mansion House, this house is considered to make an important contribution to the designated Conservation Area. Pauls Moss comprises a substantial late 19th century suburban mansion house which was previously set within landscaped grounds. It was built c.1891-5 for Edward Philips Thompson; a wealthy Liverpool banker who settled in Whitchurch and became both a significant figure in the community and a major benefactor to the town. It is situated behind frontage development with its primary elevations to the South and West. Consequently views to the house are more limited from Doddington but more significant when viewed from Rosemary Lane which runs parallel in part to the North boundary of the site, the larger scale of the original house in relation to other development means that it is legible and can be viewed within the townscape.

- 2.2 A conservation area is an area which has been designated because of its special architectural or historic interest, the character or appearance of which it is desirable to preserve or enhance. (s69 of the Planning (Listed Buildings and Conservation Areas) Act 1990 refers). The Conservation Area boundary appears to have been specifically drawn up to include the Pauls Moss House within it. (Historic England's advice).
- 2.3 The site is surrounded by existing housing much of it interwar, an allotment, community park, (Queens Park), and local public highways. The site has 3 main buildings on it at present situated with open grounds. The main building is Pauls Moss House, which as indicated above is considered a non-designated heritage asset. The other buildings which are of much later construction are effectively annexes to the Paul Moss house building.
- 2.4 Existing development is mainly of external brick construction and 3 storeys in height albeit Pauls Moss itself sits higher in the townscape given its high internal ceilings and high pitched roof. The development site is also located to the rear, and within the setting of two Grade II listed buildings which front onto Dodington: 29 Dodington and Dodington Lodge.
- 2.5 Detail as contained within the applicants Design and Access Statement indicates the scheme design proposes the retention of the existing late 19th Century red brick Paul's Moss House and the demolition of the adjacent 1980's three storey supported living apartments which are no longer considered fit for purpose. The Community Hub element of the scheme is located within the existing Pauls Moss house with adjacent new build Extra Care residential apartments to the west and south of the house and a new build Health Centre facing Pauls Moss eastern elevation. Collectively the proposal delivers a site responsive, design solution combining supported retirement living accommodation, community facilities and state-of-the-art medical centre.
- 2.6 The proposed building mass is a mix of two and three storey heights which alter across the site depending on the changing site levels whilst also considering distances between the retained Pauls Moss house and neighbouring properties.
- 2.7 The application proposes a Hub for community integration, learning and wellbeing. A 71 Unit Extra Care Housing scheme made up of one and two bedroomed contemporary, independent living apartments. A health centre made up of 21 consulting rooms. adjacent car parking and landscaped areas both public and private. The 71 self-contained Extra Care apartments (36 two bed units and 35 one bed units) are supported with private resident only communal areas, staff accommodation including housing management services and service areas including laundry, scooter charging area, public toilets and passenger lifts. The proposed hub with community meeting room, café and dining areas will encourage social interaction between Residents and the wider public who are encouraged to make full use of the facilities on offer.
- 2.8 The two storey health centre is located to the east of the site and incorporates 21 consulting rooms, waiting areas which benefit from natural daylight via central glazed rooflights as well as views out onto the adjacent central open public plaza via a fully glazed, double height waiting area. The glazed atrium space is located opposite the

main entrance into the Pauls Moss house which provides clear views of the house from inside the Health Centre as well as creating an open vista of the Paul Moss house from outside the Health Centre as one moves around the site.

- 2.9 The health centre will offer a range of modern health services to the wider Whitchurch community within a centrally located purpose built medical centre. Car parking provision is 83 spaces in total with designated disabled person spaces, taxi-drop off areas and emergency vehicle spaces is provided in line with the local authority planning guidance, the planning application is also supported by a travel statement prepared by David Tucker Associates Transport Planning Consultants.
- 2.10 It is proposed to retain the existing vehicular access point into the site with some minor improvements. The plans as submitted indicated a new vehicular access point adjacent to Dodington Hotel. A third vehicular access point is proposed off Rosemary Way but for use by health care staff only.

3.0 **REASON FOR COMMITTEE DETERMINATION OF APPLICATION**

- 3.1 This application represents significant development in the Whitchurch Conservation Area and with consideration to the previous application and planning history for development on site the Planning Services Manager considers in this instance Committee consideration is appropriate.

4.0 **Community Representations**

- 4.1 *Whitchurch Town Council (no objection) has responded indicating:*

SUPPORT on the following points:

Whitchurch Town Council (WTC) resubmits its original submission with the caveat that WTC echoes the original comments, following a Planning Committee meeting in October 2019, having heard public comments.*

- WTC notes that open spaces were miscalculated and welcomes the applicants assertion of the open spaces and amenity planting.*
 - Equalities issue has been addressed by virtue of this planning application for sheltered residential apartments.*
 - There is a bus stop outside the development, within a short walk, which needs to be retained to promote sustainable transport connections*
- There is currently minimal parking space and WTC are aware of the challenge of parking locally, and hope the applicant would consider more parking.*

Whitchurch Town Council's comments in relation to the previous application were resubmitted with their response to this application as follows:

It was resolved: to support the Pauls Moss development 9/03861/FUL stressing the importance of the new Medical Centre, with the following caveats, noting the following concerns of residents

- Concerns over access to all residents during and after the build*
- Flat roofs in a conservation area*
- Traffic plans – the internal routing of the turning circle*
- Over-development of housing and overlooking existing Pauls Moss Court residents*

- *Still awaiting the outcome of the impact Assessment*
Concerns regarding the removal of Heritage features of the existing building
i.e. fire places and mahogany panelling
Whitchurch Town Council expressed concerns over the fact that this application is not a phased development.

4.2 **Consultee Comments**

4.3 **Historic England (no objections)** have responded indicating:

This application for extra care housing, a health centre and community use space incorporating Paul's Moss is identical to that permitted under 19/03861/FUL following the refusal of an application which involved the demolition of Paul's Moss (18/05901/FUL). The significance of Pauls Moss as a non-designated heritage asset and the positive contribution it makes to the Whitchurch Conservation Area was set out in our letter dated 23 January 2019 regarding 18/05901/FUL. Our comments remain the same as those set out in our letter of 18 September 2019 regarding 19/03861/FUL but for the sake of clarity are repeated below.

Historic England Advice

The application retains the non-designated heritage asset of Pauls Moss, demolishes existing buildings that are negative elements in the conservation area and proposes a large new flat-roofed extension rising to four stories. It therefore represents a considerable change to the conservation area and should be assessed in terms of the policy set out in section 16 of the NPPF. This is clear that great weight should be given to the conservation of designated heritage assets (193) and that any harm or loss requires a clear and convincing justification (194), including public benefits where this harm is less than substantial (196). In considering new development in conservation areas the NPPF emphasizes the importance of enhancing or better revealing their significance (200) and considers that loss of a building that makes a positive contribution to significance should be treated as causing either substantial or less than substantial harm (201).

In this context Historic England welcomes the retention and reuse of Pauls Moss and the visual prominence given to it by insuring that new development sits below its eaves line. We remain concerned that the amount of new building proposed and its large areas of flat roof change the character of the conservation area and result in some harm. In making your assessment of the application in accordance with paragraph 196 of the NPPF we therefore urge you to consider whether this is justified by the public benefits offered as this is not an area of Historic England expertise.

Recommendation

Historic England has concerns regarding the application on heritage grounds. Your authority should take these representations into account in determining the application. If there are any material changes to the proposals, or you would like further advice, please contact us. Please advise us of the decision in due course.

4.4 **SC Regulatory Services (no objections)** have responded indicating:

A similar application was submitted in the past. Any conditions and detail recommended in previous applications are considered appropriate to the current application and it is recommended that they are placed on any decision notice.

The response from Regulatory Services to application reference 19/03861/FUL indicated:

The noise assessment provided indicates that internal noise levels will be exceeded in certain habitable rooms when windows are open for ventilation and hence an alternative form of ventilation needs to be provided in these rooms. Therefore I would recommend that a condition is applied requiring compliance with the noise mitigation measures detailed in the Noise Impact Assessment.

Due to the close proximity of existing residential properties the standard construction hours should be applied to the consent.

I would recommend that a condition is placed which ensures that all proposed dwellings with off road parking are provided with external charging points capable of charging electric vehicles. The reason for this is to ensure that the properties are fit for future demand.

Should it be considered appropriate to grant consent I recommend that the following condition is applied to the consent:

1. The approved scheme for the noise attenuation as detailed in the REC, Noise Assessment Report dated Aug 2019, ref: AC106392-1r1, shall be completed prior to the occupation of the site and thereafter retained..

Reason: To protect residential amenity, health and wellbeing.

2. Construction shall only take place between the hours of 07:30 to 18:00 Monday to Friday and 08:00 to 13:00 Saturday. No construction activities shall occur on Sundays and public holidays.

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

3. No development shall take place until a suitable scheme for the provision of electric vehicle charging points has been submitted to and approved in writing by the Local Planning Authority. The approved scheme shall be completed prior to the use commencing and shall thereafter be retained.

Reason: Paragraph 35 of the NPPF states; "Plans should protect and exploit opportunities for the use of sustainable transport modes for the movement of goods and people. Therefore, developments should be located and designed where practical to, amongst other things, incorporate facilities for charging plug-in and other ultra-low emission vehicles."

4.5 **SC Tree Officer (no objections)** has responded to the application indicating:

From the tree and landscaping aspect this application is identical to the previous one which I supported with the addition of 53 new heavy standard trees in mitigation for some tree loses on site to facilitate the proposals, including 5 category C and one category B (Lime tree).

Therefore with this identical scheme I have no further comments to make.

The previous response to application reference 19/03861/FUL from the Tree Officer indicated:

Having read the tree report and new landscaping scheme I raise no objections to this proposal. I support the planting of 53 new heavy standard trees in mitigation for some tree losses on site to facilitate the proposals.

4.6 **SC Drainage Manager (no objections)** has responded indicating:

The technical details submitted for this Planning Application have been appraised by WSP UK Ltd, on behalf of Shropshire Council as Local Drainage Authority. All correspondence/feedback must be directed through to Shropshire Council's Development Management Team.

The proposed surface water drainage is acceptable

4.7 **SC Planning Ecologist (no objections)** has responded indicating:

Conditions and informatives have been recommended to ensure the protection of wildlife and to provide ecological enhancements under NPPF, MD12 and CS17.

As there is no material difference between 19/03861/FUL and this application, SC ecology will re-submit our response to the previous application.

Habitats Regulations Assessment

The site lies within the 3.8km recreation zone of influence of Brown Moss, i.e. the distance within which 75% of visitors to Brown Moss live. Damaging recreational impacts have been identified on Brown Moss which is a Special Area of Conservation (SAC) and part of the Meres and Mosses Phase 1 Ramsar Site. Damage has particularly been related to dog walking and swimming of dogs in the pools on site. Residential applications within this zone of influence normally require a Habitats Regulations Assessment under the Conservation of Habitats and Species Regulations 2017.

Currently the site supports a total of 88 housing units (see submitted Travel Plan). These are split between 14 properties at Pauls Moss Court which will be retained. The remaining units are 29 retirement units and 45 general needs housing. These will all be demolished as part of the scheme (74 units).

The proposed development would consist of 71 sheltered residential apartments. In view of the similar number of dwellings proposed to the existing number, and their sheltered nature, it can be concluded that the number of visitors to Brown Moss from the development is unlikely to increase and hence there will be no likely significant effect on Brown Moss SAC/Ramsar/SSSI, alone or in-combination, as a result of this proposed development.

I have read the submitted Phase 1 Preliminary Ecological Appraisal (Stefan Bodnar, September 2019). I am happy with the level of survey work and recommend that the following conditions and informatives are included on the decision notice:

Bat and bird boxes condition

Prior to first occupation / use of the buildings, the makes, models and locations of bat and bird boxes shall be submitted to and approved in writing by the Local Planning Authority. The following boxes shall be erected on the site:

- A minimum of 10 external woodcrete bat boxes or integrated bat bricks, suitable for nursery or summer roosting for small crevice dwelling bat species.*
- A minimum of 20 artificial nests, of either integrated brick design or external box design, suitable for a range of bird species, including starlings (42mm hole, starling specific), sparrows (32mm hole, terrace design), swifts (swift bricks or boxes) and/or house martins (house martin nesting cups).*

The boxes shall be sited in suitable locations, with a clear flight path and where they will be unaffected by artificial lighting. The boxes shall thereafter be maintained for the lifetime of the development.

Reason: To ensure the provision of roosting and nesting opportunities, in accordance with MD12, CS17 and section 175 of the NPPF.

Lighting Plan condition

No development shall take place, including demolition, ground works and vegetation clearance, until a lighting plan has been submitted to and approved in writing by the Local Planning Authority.

The plan shall:

- identify those areas/features on site that are particularly sensitive for bats, where lighting is likely to cause disturbance in or around their breeding sites (including bat boxes/bricks) and resting places or along important routes (e.g. site boundary routes) used to access key areas of their territory, for example for foraging; and*
- show how and where external lighting shall be installed (through provision of appropriate lighting contour plans and technical specifications) so that it can be clearly demonstrated that areas to be lit will not disturb or prevent the above species using their territory or having access to their breeding sites and resting places.*

All external lighting shall be installed strictly in accordance with the specifications and locations set out on the plan, and thereafter retained for the lifetime of the development. Under no circumstances should any other external lighting be installed without prior consent from the Local Planning Authority. The submitted scheme shall be designed to take into account the advice on lighting set out in the Bat Conservation Trust's Guidance Note 08/18 Bats and artificial lighting in the UK

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

Bats informative

All bat species found in the U.K. are protected under the Habitats Directive 1992, The Conservation of Habitats and Species Regulations 2017 and the Wildlife and Countryside Act 1981 (as amended).

It is a criminal offence to kill, injure, capture or disturb a bat; and to damage, destroy or obstruct access to a bat roost. There is an unlimited fine and/or up to six months imprisonment for such offences.

If any evidence of bats is discovered at any stage then development works must immediately halt and an appropriately qualified and experienced ecologist and Natural England (0300 060 3900) contacted for advice on how to proceed. The Local Planning Authority should also be informed.

Breathable roofing membranes should not be used as it produces extremes of humidity and bats can become entangled in the fibres. Traditional hessian reinforced bitumen felt should be chosen.

Nesting birds 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 and/or conversion, renovation and demolition work in buildings 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 if there are no active nests present should work be allowed to commence.

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

General site informative for wildlife protection

Widespread reptiles (adder, slow worm, common lizard and grass snake) are protected under the Wildlife and Countryside Act 1981 (as amended) from killing, injury and trade. Widespread amphibians (common toad, common frog, smooth newt and palmate newt) are protected from trade. The European hedgehog is a Species of Principal Importance under section 41 of the Natural Environment and Rural Communities Act 2006. Reasonable precautions should be taken during works to ensure that these species are not harmed.

The following procedures should be adopted to reduce the chance of killing or injuring small animals, including reptiles, amphibians and hedgehogs.

If piles of rubble, logs, bricks, other loose materials or other potential refuges are to be disturbed, this should be done by hand and carried out during the active season (March to October) when the weather is warm.

Areas of long and overgrown vegetation should be removed in stages. Vegetation should first be strimmed to a height of approximately 15cm and then left for 24 hours to allow any animals to move away from the area. Arisings should then be removed from the site or placed in habitat piles in suitable locations around the site. The vegetation can then be strimmed down to a height of 5cm and then cut down further or removed as required. Vegetation removal should be done in one direction, towards remaining vegetated areas (hedgerows etc.) to avoid trapping wildlife.

The grassland should be kept short prior to and during construction to avoid creating attractive habitats for wildlife.

All building materials, rubble, bricks and soil must be stored off the ground, e.g. on pallets, in skips or in other suitable containers, to prevent their use as refuges by wildlife.

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

Any common reptiles or amphibians discovered should be allowed to naturally disperse. Advice should be sought from an appropriately qualified and experienced ecologist if large numbers of common reptiles or amphibians are present.

If a great crested newt is discovered at any stage then all work must immediately halt and an appropriately qualified and experienced ecologist and Natural England (0300 060 3900) should be contacted for advice. The Local Planning Authority should also be informed.

If a hibernating hedgehog is found on the site, it should be covered over with a cardboard box and advice sought from an appropriately qualified and experienced ecologist or the British Hedgehog Preservation Society (01584 890 801).

Hedgerows are more valuable to wildlife than fencing. Where fences are to be used, these should contain gaps at their bases (e.g. hedgehog-friendly gravel boards) to allow wildlife to move freely.

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.

- 4.8 **SC Conservation and Archaeology Manager (no objections)** has responded indicating:

It is understood that the design, layout etc. of the proposed development is identical to that previously granted planning permission under reference 19/03861/FUL but which is currently subject to Judicial Review. Given this, in their consultation response of 9 April 2020 Historic England have restated the advice they gave in respect of the previous application. Our position likewise remains unchanged, except in respect to the archaeological interest of the proposed development site. We therefore restate, and where necessary update, our advice in full below.

Pauls Moss comprises a substantial late 19th century suburban mansion house which was previously set within landscaped grounds. It was built c.1891-5 for Edward Philips Thompson; a wealthy Liverpool banker who settled in Whitchurch and became a both a significant figure in the community and a major benefactor to the town. The architects were the Liverpool based practice Willink and Thicknesse, who specialised in schools and office developments, including the Grade II listed Cunard Building in Liverpool. Thompson was presumably aware of their work through his links to the banking sector in the city, and Pauls Moss represents one of their few domestic commissions. The two-storey house with attics and basement is in a mixed revivalist architectural style and is of good quality red brick with red sandstone detailing beneath a hipped, dormered roof of slate with ceramic bonnet tiles and around a central light well. Internally, it has a late Victorian variation of the villa plan, arranged around a large and impressive double-height hallway which retains the original staircase, doors and door cases and deeply moulded and brightly coloured ceiling with ocular ceiling light. Original fixtures and fittings also survive well in the lounge, including the fireplace and joinery. However, many of the other rooms have been altered as a result of the later refurbishment of the building for institutional uses and following its acquisition by Whitchurch Urban Council in 1857. Although not a listed building, because of its date, architectural associations with Willink and Thicknesse, and its historic links with E. P. Thompson, it is considered to be non-designated heritage asset of at least county level importance.*

Pauls Moss and parts of its former grounds have been intentionally included within the Whitchurch Conservation Area, and its environs a defined as a specific character area in the Whitchurch Conservation Area Summary Character Appraisal. Although set back from the frontage, there are clear sight lines through to it from Doddington and, because of its imposing size and scale, it therefore retains a substantial presence in the streetscape. Likewise, important views of the building, set behind its boundary wall, are also gained from Rosemary Lane to the north. For these reasons the former mansion house is considered to make a significant, positive contribution to the character and appearance of the Conservation Area. However, the late 20th century extensions and surrounding former sheltered housing detract from it and are considered to make a negative contribution to it.

The proposed development site is also located to the rears, and within the settings of, two Grade II listed buildings which front onto Doddington: 29 Doddington (NHLE ref. 1366534) and Doddington Lodge (NHLE ref. 1055974)

The proposed development site also falls within part of the area of the Roman cemetery (HER PRN 00910) to the south of the Roman town at Whitchurch. A number of Roman coins (HER PRN 00569) are also recorded to have been found on the proposed development site itself. The area of the site towards the street frontage also falls forms part of the tenement plots (HER PRN 05952) associated with the post-medieval suburb of Doddington. The proposed development site was subsequently subject to extensive landscaping and disturbance in the later 19th century through the construction of Pauls Moss and the laying out of its garden and

grounds (during which some the Roman finds referred to above appear to have come to light), and subsequently through redevelopment in the later 20th century. Despite this disturbance, at the time of the previous application (ref. 19/03861/FUL) it was stated the proposed development site was still considered to have moderate archaeological potential for Roman and post medieval remains. An archaeological condition was subsequently included on the planning permission which made provision for a phased programme of archaeological to comprise an initial archaeological evaluation followed by further mitigation if necessary.

The archaeological evaluation required under the archaeological planning condition was subsequently undertaken in February 2020. During preparations for this work consultation of utility plans confirmed that many parts of the site had been heavily comprised by servicing. However, working around these services, it was possible to open four evaluation trenches. No features or deposits pre-dating the post-medieval period were found in any of these trenches, and the results indicate that a high degree of truncation down to natural deposits has occurred across much, if not all, of the site as a result of Victorian and modern landscaping and construction. As a consequence, the proposed development site is now considered to have low – negligible archaeological potential.

The following advice is provided as a joint consultation response on behalf of the Historic Environment Team.

The current proposed development (together with that previously approved under ref. represents 19/03861/FUL) comprises a substantially revised and redesigned version of the scheme submitted under application reference 18/05901/FUL. Unlike this earlier scheme, it is proposed to retain Pauls Moss mansion house and to refurbish and provide a mixed use for the building, which includes a community room and café, as part of the development. The existing former residential blocks will be demolished and a new extra-care facility constructed. In addition, the development will also incorporate a new Health Centre. The site will be re-landscaped to provide both amenity space for the residents of the extra-care facility and a new public plaza between and adjacent to the Health Centre and mansion house.

With regards to Policy MD13 of the Local Plan and Paragraph 189 of the NPPF, the applicant has submitted an archaeological Desk Based Assessment and Visual Impact Assessment (retaining Pauls Moss), both by Clare Henshaw and Associates. Together with the heritage assessments submitted with the previous application, these describe significant of the heritage assets that will be affected by the proposed development and provide the Applicant's assessment of the impacts upon their significance.

In their consultation response of 9 April 2020, Historic England restates that the fact that they welcome "...the retention and reuse of Pauls Moss and the visual prominence given to it by insuring that new development sits below its eaves line.". However, whilst they do not object to the proposed development, they repeat their concerns regarding the impact it will have on the character of the Conservation Area as a result of amount of new building that would be involved and the large area of flat roof.

When assessing the amended scheme, we have given due consideration to Sections 66(1) and 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990; the policies contained in Chapter 16 of the NPPF; Policies CS6, CS17, MD2 and MD13 of the Local Plan, and the guidance contained in the NPPG and Historic England's Historic Environment Good Practice in Planning Advice Notes 2 (Managing Significance in Decision-Taking in the Historic Environment) and 3 (The Settings of Heritage Assets).

Like Historic England, we greatly welcome the retention and re-use of Pauls Moss mansion. In our opinion the design of the proposed development will ensure this building retains its current scale and dominance within this part of Conservation Area, and within the views from Doddington and Rosemary Lane. We note in particular that the Medical Centre has been positioned to provide a separation from the mansion, whilst the two storey flat roofed design will ensure that it sits well below the eaves level of the mansion. At the same time, the contemporary architectural style of the medical centre will differentiate between the new build and the retained building, whilst the mixed palate of brickwork, glass, timber and render will create both interest and act to visually break up the form and scale of this part of the new building.

Likewise, on the north-west elevation, the use of the proposed flat roof design will ensure that building will again sit well below the eaves of the house throughout its length. Again the use of different brick types, balconies and glazing within the stair well, will act to visually break up the massing of the building.

The proposed new public plaza, if executed well, also has the potential to provide both a new setting for the retained mansion and a new area of public open space for the town as a whole. Together with the terraces on the south-west side of the mansion and the glazing on the western elevation of the Medical Centre, these elements of the proposed scheme should ensure that the retained mansion remains the focal point on the proposed developed site. With reference to Paragraph 200 of the Framework, they should also better reveal the significance of this part of the Conservation Area, and the positive contribution the mansion house makes to it, to both residents and visitors.

In terms of the amount and scale of new build that the proposed development would entail, it is acknowledged that it would create a very substantial new building in this part of the Conservation Area. However, we note that the three stories at the south-western end of the building is accommodated within the change in site levels. In combination with the use of the flat roofed design, and as observed above, this means that at no point does the roof level project above the eaves level of the retained mansion, ensuring that it remains subservient to it in terms of its height. Likewise, we accept that the use of mixed materials, together with architectural distinction that is created between Medical Centre and extra-care residential elements, will act to visually break up the massing of the building. At the same time, the scheme will remove the negative contribution that the existing residential blocks make to the character and appearance of this part of the Conservation Area, and replace them by comparison with a building with greater architectural merit. Taking all of these points together, and on balance, we therefore disagree with Historic England that the proposed development will cause harm to the significance of the Conservation Area as a result of its impact of the new build elements upon its character and appearance. In other words, we consider that the proposed

development will cause no harm to the significance of the Conservation Area. With reference to Section 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990, we consider that the retention of the mansion house would mean that the scheme preserves the character and appearance of the Conservation Areas, whilst the overall design also offers some enhancement. For the same reason, and with reference to Section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990, we likewise consider that proposed development will not affect the settings of any listed buildings.

In these respects, however, we note that it is proposed to replace the existing plain tiles on the roof of the retained mansion house and to replace the windows with double glazed uPVC units to a similar design. The existing plastic gutters and down pipes will be replaced with powered coated metal rainwater goods, and the decorative hoppers replaced to match where necessary. To maintain the contribution the buildings makes to the character and appearance of the Conservation Area, it is essential that the roof tiles represent a like-for like replacement and that the new windows are high quality uPVC sashes. Similarly, the replacement of the rainwater good should provide an enhancement Provided that they are of a suitable colour and design. The existing lead hoppers should be retained if at all possible. Some details of the materials for the hard landscaping elements have yet to be provided. If planning permission is granted, appropriate conditions should therefore be included to ensure prior approval of these elements of the scheme at the appropriate point as the development progresses.

In terms of the fixtures and fittings within the interior of the mansion house, these are not subject to planning control because this is not a listed. It is noted that proposed development will entail the removal and alteration of some of the remaining historic fabric, through the removal of some walls, doors and doorways, timber panelling and a fireplace (the staircase and plaster ceiling mouldings within the entrance hall will remain). In terms of the status of the building as a non-designated heritage asset, and with reference to Policy MD13 of the Local Plan and Paragraph 197 of the NPPF, this will cause some harm to its significance, which we would assess to be at the level of less than substantial harm. However, it is understood that these alterations are necessary to facilitate the new uses of the building in a manner that is DDA compliant, whilst the asbestos that was fitted within some of the original doors in the later 20th means that they cannot be re-used. When undertaking the planning balance with respect to the harm to the significance of this heritage asset, it should also be acknowledged that the proposed development will provide the building with a viable use for the foreseeable future. Paragraph: 020 Reference ID: 18a-020-20190723 of the NPPG indicates that this can be considered as a public benefit that the proposed development will provide.

Finally, as indicated above, on the basis of the results of the archaeological evaluation that was undertaken in February 2020 proposed development site is now considered to have low-negligible archaeological potential. As a consequence, it is advised that no further archaeological mitigation will be required on the proposed development site and, as a result, that an archaeological planning condition will not be required in planning permission is granted for the current application.

Suggested Conditions:

Conditions that require approval during the construction of the development
Roofing materials

Prior to the above ground works commencing samples and/or details of the plain clay roof tiles to be used on the retained Pauls Moss mansion shall be submitted to and approved in writing by the Local Planning Authority. The development shall be carried out in complete accordance with the approved details.

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

Windows

Prior to the above ground works details of the windows to be fitted in the retained Pauls Moss mansion shall be submitted to and approved in writing by the Local Planning Authority. The development shall be carried out in complete accordance with the approved details.

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

Rainwater goods

Prior to the above ground works samples and/or details of the metal rainwater goods to be used on the retained Pauls Moss mansion shall be submitted to and approved in writing by the Local Planning Authority. The development shall be carried out in complete accordance with the approved details.

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

Hard landscaping

No above ground works shall be commenced until full details hard landscape works have been submitted to and approved in writing by the local planning authority. The landscape works shall be carried out in full compliance with the approved plan, schedule and timescales.

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

4.9 SC Housing (no objections) have responded indicating:

Shropshire has an ageing population and the projections show that this will continue to increase, therefore increasing the need for accommodation such as this which will provide 71 much needed affordable rented homes for residents over the age of 55 who have some care requirements. We have seen from recent completed developments of Extra Care facilities that the provision doesn't just meet a need but improves the health and well-being of the residents living in the apartments. The location of a new health facility on site adds to the benefits this scheme will bring.

4.10 SC Parks and Countryside (no objections) have responded indicating:

With regards to the above planning application at Pauls Moss Whitchurch, our comments made to planning application 19/03861 still apply therefore I have no further comments to make.

The response to the previous application subsequently approved indicated:

The resubmitted application shows the addition of public open space within the development and Officers are content with the proposals and have no further comments to make.

4.11 **SC Highways Manager (no objections)** has responded indicating:

From a highway perspective I reiterate the advice/comments as previously set out in relation to the previous application.

The response from the SC Highways Manager to application reference 19/03861/FUL indicated:

The submission of this application follows the refusal of planning permission in respect of application reference 18/05901/FUL, although the reasons for refusal were planning based and not related to issues of highway safety, road capacity or parking provision.

The previous application included scheme included 74 extra care apartments, a pharmacy and large community hub. The current revised scheme now includes 71 extra care apartments, no pharmacy and smaller community hub. In terms of car parking provision, whilst the vehicular accesses and parking layout are as previously shown in connection with the application 18/05901/FUL, the parking level has reduced from 85 to 83 spaces.

LOCAL CONTEXT

The site is proposed to be served by three accesses, one from Rosemary Lane and the others from Dodington. Rosemary Lane is the B5476, a road of near 10m in width which accommodates two-way traffic and some on street parking near the site. On the section approaching the junction with Dodington informal on street parking is available on both sides of the street allowing about 20 on street parking spaces near to the site. A site visit to the area identified 13 of these to be in use. Dodington is the B5398, it currently serves two-way traffic. The road length fronting the development site does have defined on street parking bays available on the development site side and some additional capacity for informal on street parking opposite. Capacity would appear to be around 16 spaces and site visit have identified around 8 of these to be in use.

At just 340m to the north of the site via Dodington and Bridgewater Street lies the community parking facility adjacent to Tesco and the Swimming Pool. This car park has a capacity in excess of 250 spaces and has a 3hr stay limit. A midweek site visit between 10.00am and 11.00am identified this car park to be half full and therefore well in excess of 100 spaces available for use. Pedestrian routes between the development site and this car park are good and the walk generally takes between 4 and 5 minutes. The 340m distance walk falls within the generally accepted 400m walking distance parameter for planning and evaluation purposes of development.

There are not considered to be any current adverse highway issues either in terms of highway safety or traffic capacity within the local highway network. It is considered that the local highway network can adequately cater for the traffic likely to be generated by the current proposal.

ON-SITE PARKING

Extra Care Facility

Extra Care apartments traditionally do not attract particularly high car ownership numbers and the provision of one parking space per three sheltered units is considered acceptable. Based upon this development, the Extra Care facility should provide in the order of 24 spaces. However for robustness and taking on board some local concern regarding these units, I consider the application of 1 space per 2 units to be more suitable and therefore the provision of 48 spaces is considered acceptable in this town centre location.

Medical Centre

Parking provision of 35 spaces are proposed for the medical centre of which include 11 staff spaces. Based upon 10 consulting rooms being in use at any one time, the Transport Assessment indicates a maximum parking demand of up to 36 spaces although generally the parking demand is suggested to be below this figure through most of the day. I have no reason to dispute these parking numbers or the rationale regarding consulting rooms being used. The reality is however that there may be periods where parking demand exceeds the site provision, which would lead to some on-street parking.

The allocated staff parking is accessed from Rosemary Lane where 11 spaces are proposed. 6 of the parking bays are in a tandem arrangement, which is only really suitable if the staff utilising these spaces leave work at the same time or a mass backing up exercise is required if someone needs to get out during the day. However, being reasonable, I am confident the use of these spaces can be carefully managed between staff and if this area wasn't allocated for formal parking it would get parked in anyway and the same potential issue would result. It should be noted however that access would, on infrequent occasions, be required to the pumping station. In those instances this parking area would need to be managed to allow access to the pumping station. Again in those instances this would result in some car displacement and in all probability on street parking.

Using the Travel Survey data provided, an initial presumption can be made that 50 staff would require 40 spaces but just 18 of these are full time so it would be unreasonable to expect such a high level of staff parking. All the staff will not be on-site at any one time and 32 staff are part time. No specific information regarding working patterns has been submitted but it is appreciated that shift and working patterns are difficult to predict as things change and it would also be difficult to control over time. 25 spaces are provided for visitors and patients to the medical centre. The facility is proposing 21 consulting rooms and it is understood that all the rooms will not be in use at any one time.

Overall, it is considered that the parking for the medical centre should be considered holistically rather than by accounting for every possible staff and visitor scenario.

PARKING SUMMARY

It is considered that sufficient parking is proposed for the extra care units in that 48 spaces are provided and 38 would be required. This results in a potential net availability to the other operations on the site of 10 spaces. The medical facility holistically is assumed to require 51 spaces with 36 being provided; a deficit of 15 spaces which could be balanced by the 11 from the extra care element to an extent.

It is noted that some concern has been raised through the planning consultation regarding parking provision on the site but any parking overspill which may occur from the site could be sufficiently picked up by local on street parking provision and the use of the public car park off Bridgewater Street, which is within accepted walking distance of the facility and appears to have available capacity during a standard weekday.

Whilst Shropshire Council currently has no adopted parking standards the above assumptions on parking within the site could be considered to be based on first principles; moreover, consideration would have to be given to how any refusal recommendation based on parking provision could be justified. It is our view that an objection to this development on parking grounds is not justified.

However, notwithstanding the above, what is important is how the available on-site parking is properly managed. In order for the on-site parking provision to work efficiently and at its most effective, the careful marking up and allocation of bays including associated instructional and directional signage will be required on site. It is considered this could be dealt with by submission of specific detail and delivery under condition prior to commencement in use.

CYCLE PARKING

The site will cater for two differing businesses, with some staff on site 24 hours per day in the Extra Care facility for example. The development as a whole is offering five cycle stands for the site, these can cater for 10 cycles. For the cycle parking the two businesses should be dealt with separately. Cycle parking facilities for the staff should reassure staff that their cycle is secure and protected from the weather.

The Medical Centre

There should be, as a minimum, a four-cycle secure sheltered facility provided. For visitors/users, who tend not to leave their cycles for long periods, as a minimum a further two non-sheltered but secure cycle stands for four cycles should be provided. These need to be located close to an access point into the main building and be in an overlooked and prominent position.

Extra Care Facility

This facility will be a 24 hour per day operation, to encourage the use of sustainable transport (cycling) it needs to provide similar to the above at a location prominent, overlooked and close to the main entrance of the Extra Care facility.

The provision of cycle parking facilities goes hand in hand with the sites travel plan and therefore I would be happy for specific details of the cycle parking to be included in an updated travel plan that can be suitably conditioned on any consent given.

TRAVEL PLAN

The purpose of a Travel Plan is to set out the intentions of the applicants in regard to users and staff of the development facilities and their use of sustainable transport through the life of the development.

The Travel Plan (TP), as currently submitted has move some way forward when compared to the TP submitted as part of the 2018 application. I am content therefore that it satisfactory should planning permission be granted. The purpose however of the TP is that it is an evolving document for the lifetime of the development.

SUMMARY

Overall whilst it is understood that there are some local concerns regarding this scheme, the highway authority acknowledge that the scheme has reduced to that previously promoted, particularly with the loss of the pharmacy facility. It is not considered that this development would give rise to any highway and pedestrian safety concerns.

It is acknowledged that car parking has been raised as a material consideration locally including the Town Council, specifically the level of parking provision on the site. The site however is located within the town centre, within reasonable walking distance of public car parks. The Travel Plan should seek to help in reducing car borne traffic to the site for both staff, visitors and patient.

Ultimately in terms of car parking provision, fundamentally the Council would have to demonstrate that the level of parking provision was so inadequate that it would result in 'severe impact' in the locality. I do not consider that this is the case and no information or evidence has been presented which suggests otherwise.

RECOMMENDED PLANNING CONDITIONS:

Access

Prior to the development hereby permitted being first brought into use or occupied, the staff car park access onto Rosemary Lane is delivered, constructed in full with visibility splays of 2.4m x 33m and is in accordance with details to be first submitted to and approved in writing by the Local Planning Authority.

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

Car Parking

The development hereby permitted shall not be brought into use until a car parking management plan has been submitted to and approved in writing by the Local Planning Authority. Details within this plan will include allocation of spaces and strategy for the instructional and directional signage of the parking within the site and that available off site. The parking shall be delivered in accordance with this plan, also properly laid out, hard surfaced and drained prior to first occupation of the facility and then maintained as such for the lifetime of the development.

Reason: To ensure the provision of adequate and managed car parking provision within the site, to avoid congestion on adjoining roads and to protect the amenities of the area.

On-site Construction

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

- the parking of vehicles of site operatives and visitors
- loading and unloading of plant and materials
- storage of plant and materials used in constructing the development
- the erection and maintenance of security hoarding including decorative displays and facilities for public viewing, where appropriate
- wheel washing facilities

- measures to control the emission of dust and dirt during construction
- a scheme for recycling/disposing of waste resulting from demolition and construction works
- a Construction Traffic Management Plan, including all HGV routing & unloading proposals;
- an appropriate community liaison and communication strategy, to inform affected local residents and businesses, throughout the works.

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

Travel Plan

The Travel Plan (TP) objectives shall be fully implemented in accordance with approved details for the lifetime of the development. The TP shall thereafter be submitted to Shropshire Council upon request but no less than 2 years from the date that the development is first brought into use/occupied and every 2 years thereafter.

Reason: To minimise the use of the private car and promote the use of sustainable modes of transport

Informative:

*Works on, within or abutting the public highway (Includes all footways & verges)
This planning permission does not authorise the applicant to:*

- *construct any means of access over the publicly maintained highway (footway/verge) or*
- *carry out any works within the publicly maintained highway, or*
- *authorise the laying of private apparatus within the confines of the public highway including any a new utility connection, or*
- *undertaking the disturbance of ground or structures supporting or abutting the publicly maintained highway, or*
- *undertake the placing of a skip, scaffolding, hording or fencing on or immediately adjacent to the highway, or*
- *use the highway for any purpose associated with the construction of this development, such as unloading delivery vehicles, parking of plant or machinery or the storage of materials, etc.*

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

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

Please note: Shropshire Council require at least 3 months' notice of the applicant's intention to commence any such works affecting the public highway so that the applicant can be provided with an appropriate licence, permit and/or approved specification for the works together and a list of approved contractors, as required. It should also be noted that the Developer may be directed by Shropshire Council to carry out works, within the public highway, overnight or at weekends (outside of the scope of the planning consent) to ensure through traffic disruption and health & safety requirements are managed appropriately.

4.12

Public Comments

4.13 Four letters of objections have been received which include three from the resident of a local dwelling, all raising issues as follows:

- ☐ Concerns with regards to drainage plans as proposed in consideration of existing infrastructure on site.
- ☐ Concerns with regards to loss of visitor car parking to dwellings adjacent to the site which will infringe on the leaseholders property rights.
The third letter of objection is on behalf of the Pauls Moss Court Residents Association (formed of 14 households) formally objecting to the proposed
- ☐ scheme, indicating householders have leaseholder rights to 7 'visitor' spaces
- ☐ that are to be shared with the residents of Pauls Moss Court only
- ☐ Comments about advertising of the application by the Council;
Open space provision is considered derisory.
Concerns with regards to scale, mass and overall internal and external design.

4.14 Four letters of support for the proposed development have been received from members of the public.

A letter has been received from a firm of architects and urban designers on behalf of the Claimant involved in the ongoing judicial review, which says as follows (removing details for the purposes of GDPR):

Dear Sirs

Pauls Moss Community Room Pauls Moss Whitchurch Shropshire SY13 1HH

1. *We have been asked to lodge a formal objection to the application ref 20/01284/FUL.*

Background

2. *This is the 3rd application on this site. To recap, the first application (ref 18/05901/FUL) was refused by committee 28 June 2019. The 1st scheme provided 627sqm of outdoor*

amenity space according to Officer's Report¹ for the 25 June 2019 committee meeting. There was also a reference to public outdoor space on land outside the red line boundary and the control of the applicant. Based on the accommodation schedule, the Council calculated that 3060sqm of private outdoor space should have been provided under Policy MD2 of the Shropshire Council Site Allocations and Management of Development (SAMDev) Plan Adopted Plan 17/12/2015.

3. *Correctly, the Council disregarded the amenity space outside the red-line boundary due to objections from the owner. This meant the public open space deficit amounted to some **80%**. The officer who dealt with the application accepted the provision of amenity space was in breach of Council policy which amounted to a "substantial shortfall" and "this is considered unacceptable, given the scale of development..."*
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¹ OR pg 28

4. *The 2nd application (ref 19/0386/FUL) again seriously underprovided outdoor amenity space but was approved by decision dated 18 October 2019. According to the updated Design and Access Statement,² the outdoor amenity space provision had increased by 450sqm. There is no definitive calculation provided in the documentation and the application plans are schematic.³*
 5. *Giving the developer the benefit of the doubt, and assuming the best case of 627sqm + the additional 450sqm, the public open space in the 2nd application was 1,077sqm - still a significant under provision. According to the Officers Report for the 2nd scheme, the*
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² D.&A pg 5, under heading Pre-Application Discussions

³ The Wellbeing Report by AH Design dated 10/2019 records different figures of 587 sqm of private amenity space and 994 sqm of other areas including buffer areas – in fact there is a serious lack of clarity through the documentation and no schedule of area

open space requirement was to provide 3210sqm⁴. On these figures, under the best-case scenario, the under provision is a **67%** deficit.

6. *The Claimant commenced judicial review proceedings in the Planning Court on 5 December 2019. The grounds of claim relate directly to the inadequate provision of outdoor amenity space and allege inter alia that the Council discriminated on the basis of age and/or disability in accepting a significant deficiency of amenity space. The Court granted permission for the claim to proceed on the papers and the substantive hearing is listed for 11 June 2020 before the Planning Court.*

3rd application 20/01284/FUL

7. *As evidenced by the submitted plans, and as has been claimed in the 10 March 2020 Planning Statement at ¶4.6 (2020 PS), the 3rd planning application for Pauls Moss*
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remains the same in “all physical respects”. Significantly, there has not been any evidence of progress to resolve the design shortcomings and hence the current attempts at justification. As such, the proposals in relation to open space as configured remain inadequate, both in terms of the extent, its quality and ease of access.

8. *The calculations of the various ‘area options’ of scant, so called ‘open space’ is reliant on the aggregation of fragmented, disconnected, disparate totals, many of which are linear strips of ‘non-built-up’ site areas on the margins of roadways, rather than considered open space conceived as true amenity space, as we all know it, for residents and visitors to frequent, occupy and actually use. For this reason, the calculations found in the 2020 PS (pg11) wildly overestimate the quantum of open space and can only be seen as a deliberate attempt to mislead the planning committee on a highly important issue.*
9. *Providing good quality, useful and readily accessible open space underpins planning advice and is not merely a retrospective ‘post-design’ optional counting exercise to justify purely numerical criteria.*
10. *Further, the developer’s counting method adopted in the Planning Statement disregards Council policy on what is amenity space. To quote part of section 3.13 of the SAMDev Plan:*

“For developments of 20 dwellings and more, the open space needs to comprise a functional area for play and recreation. This should be provided as a single recreational area, rather than a number of small pockets spread throughout the development site, in order to improve the overall quality and usability of the provision.”

11. *Evidence of an understanding or the prioritising of this approach has never been evident in any of the planning submissions and proposals for the Pauls Moss site, and there remains therefore a serious underlying design deficiency. The layout and fragmentation does not demonstrate how the requisite open space will work adequately as amenity space to facilitate residents’ activities and ease of association that open space amenity is intended to mediate and provide. In short, it is not policy compliant and does not meet the SAMDev Plan requirement of useable amenity space.*
12. *In addition, adequately providing for the level of occupancy is in the interests of the long-term planning and sustainability of the site. It is essential that the overall design parameters for layout represent good practice and policy compliance. It is apparent that the floor areas of the individual flats could easily be expected to accommodate a much higher level of occupancy than the level of the planned site occupancy based on the 1 bed/1 person and 2 bed/2-person ratio relied on.*
13. *When the developer’s counting methods are considered in detail, it is immediately apparent that so called options 1 and 2 are overinflated and irrelevant to understanding the public shared outdoor space provision as:*
 - (1) *they counted private balconies and private ground floor patios so cannot be included as part of shared amenity space; they also include shared roof terraces, and a strip of land to the south west that is too close to the ground floor flats to be shared public space*
 - (2) *they counted areas of extraneous margin alongside the service road entrance and parking between Pauls Moss House and the main road (Dodington) – hardly convenient, pleasant, or safe and plainly not amenity space.*

14. *Although so-called option 3 omits the landscaping buffer areas and ground floor patios and upper floor balconies, it continues to count areas that are invalid as shared amenity space. For example, the linear perimeter area of open space along the eastern and southern site boundary is just a paved footpath/roadside planted verge between and/or contiguous with the roadway and parking bays and drop-off lay-bys. The areas are distanced from between 0 to 2 metres from the windows to 12 ground floor flats, and from 0 to 2.5m adjacent to 6 ground floor consulting rooms on the eastern elevation. This area is far from being open space amenity, it is also contiguous with a delivery and taxi drop off lay-by. See attached sketch diagram.*
15. *An important consideration in the provision of shared outdoor space is to ensure it does not impinge on the privacy of occupants of the ground floor flats. Here the perimeter strips cannot be considered as suitable for usable shared amenity outdoor space that could in any way be enjoyed recreationally by residents given the close proximity to the windows in the ground floor flats. Indeed, most residents would feel inhibited by using the areas is such close proximity to another resident's flat.*
16. *It is my professional judgment that counting the marginal perimeter spaces as part of all of the three options' provision of outdoor amenity space is invalid because these areas do not meet the definition of what commonly understood by architects and landscape designers as viable shared open space amenity. They are predominately the footpaths and verges planted as ground cover or with shrubs to the perimeter footpaths, e.g. 150m long and by between 3m and 5m wide.*
17. *There is also a significant design flaw with the central amenity area that is provided. Only 13 of the 71 flats actually overlook the central open space, which is totally overshadowed with three storey buildings on the south, east and west sides. The only area of lawn provided is also within this central space which, as already noted, has limited opportunities to receive sunlight as it faces north and is enclosed on all three other sides by three storey buildings. As a flexible recreational space, it is very small. At approximately 35 sqm it does not even match the area of a one-person studio flat.*
18. *Further, because of the long double-banked corridor layout, all residents have to access the central outside space via internal corridors without natural light and either stairs or a lift (there are only two, and for many they are 50m distant). Neither of the two staircases directly serve the central space.*
19. *The dominance of hard landscaping, coupled with the excess of roadway, resulting from the ill-conceived brief and site planning, contributes to the very dominant and detrimental prevalence of impermeable surface, with only a very limited presence of green impermeable 'soft' amenity areas. These are traditionally and universally welcomed by residents and, in particular, are highly important for over 55s and those with special needs and limited mobility.*
20. *In my previous letter to the Council, I referred to relevant guidance on what is needed for accommodation of this nature. To be more specific, Richard Best, the Chair of the All-Party Parliamentary Group on Housing and Care for Older People, said in his November 2012 forward to: 'HAPPI - Housing Our Ageing Population Plan for Implementation:*

"Good retirement housing involves plenty of space and light, accessibility, bathrooms with walk-in showers, the highest levels of energy efficiency and good ventilation, a pleasing natural environment outside, balconies, and more. And if the dangers of loneliness are to be replaced with opportunities for a good social life, there must be space for people to get together.

This higher quality and extra space pays for itself: for the occupier, for family and informal carers, and for providers of health services and social care. And these benefits, quite enough in themselves, are greatly magnified by the release of acutely-needed family homes”.

21. *Underpinning these recommendations, the HAPPI panel stressed the importance of design, identifying ten elements that are critical to achieving age-inclusive housing for “HAPPI-style” projects. They include:*

1. *Generous internal space standards*
2. *Plenty of natural light in the home and in circulation space*
3. *Balconies and outdoor space, avoiding internal corridors and single-aspect flats*
4. *Adaptability and ‘care aware’ design which is ready for emerging telecare and telehealth care technologies*
5. *Circulation spaces that encourage interaction and avoid an ‘institutional feel’*
6. *Shared facilities and community ‘hubs’ where these are lacking in the neighbourhood*
7. *Plants, trees, and the natural environment*
8. *High levels of energy efficiency, with good ventilation to avoid overheating*
9. *Extra storage for belongings and bicycles*
10. *Shared external areas such as ‘home zones’ that give priority to pedestrians*

22. *Demonstrably the Pauls Moss proposals do not comply with these well-established principles. To summarise:*

1. *Internal facing kitchens and bathroom exist in all flats, and all but 9 of the 71 flats are single aspect*
2. *All flats are served by internal windowless corridors*
3. *Access to flats is from highly institutional corridors, the longest straight length (on three levels) being 65 metres*
4. *Space for plants and trees has become minimised - this is due to the excessive roadway area, poor design site planning and massing, and the planning authority’s failure to recognise and support the fundamental importance of open space for over 55s.*
5. *Shared external home zones do not feature, as a large proportion of open space has been relegated to a very long, public, narrow strip of roadside verge planting that also serves as parking for other residents. The difficult to access central area is hidden and remote from 80% of the residents and the western wildflower meadow is not likely to be accessible throughout the whole year and necessitates passing immediately beside the private open space and windows of the 8 ground floor flats that serve it.*

23. *There are also serious issues concerning the lack of easy access from flats to the central area. It too, regrettably, consists of overly structured, inflexible, hard ornamental planting, ground cover and flower beds and a split level that prevents easy external movement north-south across the site. Many of the counted external ‘open spaces’ are disproportionately located to the north of the site where the hard landscaping is not directly connected to the flats and is more in the nature of public realm open space rather than open space for the amenity and use of residents.*

24. *Finally, people are not going to contemplate sitting overlooking a busy car park that is also shared with local residents. There are 28 south-facing flats that overlook the open tarmac car park and the vehicle drop off point, which has no provision for exit and reversing. Neither does the other eastern drop off, nor do the disabled parking bays to the northern end of the scheme.*

Heritage

25. *I previously commented on the harmful heritage aspects on this scheme and note that Historic England continues to have concerns with the application as recorded in its April 2020 consultation response. The short point is that the scheme may retain Pauls Moss but the scheme so adversely impacts on that heritage asset in such a negative way that the benefit of retention of the house is undermined.*
26. *Specifically, and to be clear, the retention of Pauls Moss House along with its setting in relationship to its former garden now requires more careful consideration as a retained and to be accommodated historic building. So, a fresh more considered approach to the site layout is necessary. There is no design logic or validity to continue with what is practically the same design response to the site. By simply retaining Pauls Moss amidst and 'melded' to the former proposals, it results in effect to a worsening of the situation. It demonstrates even more starkly the effect and folly of the original scheme based on ignoring the site context and its history and Pauls Moss House. The current proposals appear as a glib short-cut to overcoming objections with no evidence of the new site conditions having provoked any further thought, care and consideration. In summary the current proposals worsen the setting of the newly retained Pauls Moss house.*
27. *I note that the Council's conservation officer disagreed with Historic England's advice on the 2nd application and advised that the application would cause "no harm" to the conservation area. This is irrational given the only aspect relied on was the use of a variety of construction materials to break up the massing. The changes in scheme 2 and this scheme 3 do not address other significant concerns raised in the Officer's Report for the 1st application about the scale and density of the development as well as the absence of green open space.*

Conclusion

28. *In conclusion, the aggregation of random slivers and scraps of miscellaneous planting and ground cover cannot be considered as open space and the counting methods reveal a deliberate attempt to mislead members as to the quantum and quality of open space provided in the scheme. The current layout and design of the proposals clearly do not demonstrate how to accommodate a satisfactory, compliant, and balanced level of development and occupation on this important social housing site.*
29. *The Council should be wary of accepting the fabricated and spurious counting in the planning statement given the risk of further legal proceedings, and it does no credit to the professionals advising the developer to have resorted to such measures when faced with a Court challenge to its inadequate development scheme proposals.*

5.0 THE MAIN ISSUES

- Principle of development
- Historic environment and impact
- Siting, scale and design
- Visual impact, landscaping and open space provision.
- Economic and social benefits
- Highway and transportation

6.0 OFFICER APPRAISAL

6.1 Principle of development

- 6.1.1 Under section 38(6) of the Planning and Compulsory Purchase Act 2004, all planning applications must be determined in accordance with the adopted development plan unless material considerations indicate otherwise. Proposed development that accords with an up-to-date Local Plan should be approved, and proposed development that conflicts should be refused, unless other material considerations indicate otherwise. The development plan in Shropshire consists of the Core Strategy (adopted in February 2011), and the Site Allocations and Management of Development (SAMDev) Plan (adopted in December 2015). While planning applications are considered against the policies of the development plan as a whole, specifically relevant policies to this application are set out further below.
- 6.1.2 Core Strategy Policy CS6: Sustainable design and development principles states that to create sustainable places, development will be designed to a high quality using sustainable design principles, to achieve an inclusive and accessible environment which respects and enhances local distinctiveness and which mitigates and adapts to climate change. It further states that all development will protect, restore, conserve and enhance the natural, built and historic environment and is appropriate in scale, density, pattern and design taking into account the local context and character, and those features which contribute to local character, having regard to national and local design guidance.
- 6.1.3 Policy MD2 of the SAMDev on Sustainable Design indicates for development proposals to be considered acceptable development must respond positively to local design aspirations and contribute to and respect local distinctive or valued character.
- 6.1.4 Policy MD13: The Historic Environment in the SAMDev states that Shropshire's heritage assets will be protected, conserved, sympathetically enhanced and restored by ensuring that where ever possible proposals avoid harm or loss of significance to designated or non-designated heritage assets, including their settings and that ensuring that proposals which are likely to have an adverse effect on the significance of a non-designated heritage asset, including its setting will only be permitted if it can be clearly demonstrated that the public benefits of the proposal outweigh the adverse effect.
- 6.1.5 Paragraph 3.132 in support of Policy MD13 states Heritage assets are buildings, monuments, sites, places, areas or landscapes that merit consideration as part of the planning process. The term includes all designated and non-designated assets and makes reference to 'Conservation Areas' as a designated asset.
- 6.1.6 The National Planning Policy Framework, (NPPF) sets out the Governments planning policy, it was revised in February 2019 and is a significant material planning consideration for decision takers. Paragraph 38 of the framework says that "Local Planning Authorities should approach decisions on proposed development in a positive and creative way. They should use the full range of planning tools available, including brownfield registers and permission in principle, and work proactively with applicants to secure developments that will improve the economic, social and environmental conditions of the area." The NPPF indicates a presumption in favour

of sustainable development and that for decision taking this means approving development proposals that accord with an up-to-date development plan.

6.1.7

The NPPF states that achieving sustainable development means that the planning system has three overarching objectives which are interdependent and need to be pursued in mutually supportive ways. These are:

An economic objective – to help build a strong, responsive and competitive economy, by ensuring that sufficient land of the right types is available in the right places and at the right time to support growth, innovation and improved productivity; and by identifying and coordinating the provision of infrastructure;

A social objective – to support strong, vibrant and healthy communities, by ensuring that a sufficient number and range of homes can be provided to meet the needs of present and future generations; and by fostering a well-designed and safe built environment, with accessible services and open spaces that reflect current and future needs and support communities' health, social and cultural well-being; and

An environmental objective – to contribute to protecting and enhancing our natural, built and historic environment; including making effective use of land, helping to improve biodiversity, using natural resources prudently, minimising waste and pollution, and mitigating and adapting to climate change, including moving to a low carbon economy.

6.1.8

These objectives should be delivered through the preparation and implementation of plans and the application of the policies in the Framework; they are not criteria against which every decision can or should be judged. Planning policies and decisions should play an active role in guiding development towards sustainable solutions, but in doing so should take local circumstances into account, to reflect the character, needs and opportunities of each area.

6.1.9

The principle of this form of development is considered acceptable within the town of Whitchurch. The key considerations in this case are whether the merits of the proposal in providing the new medical centre and extra care housing through both its use and the design of the replacement building along with the impacts on the non-designated asset structure outweigh any detrimental impacts in relation to the setting of the Conservation Area, and the contribution the site makes to the historic and architectural character and appearance of the Whitchurch Conservation Area. The key material considerations are considered further below.

6.2 **Historic environment and impact**

6.2.1 Section 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 requires when determining planning applications within Conservation Areas that special attention shall be paid to the desirability of preserving or enhancing the character or appearance of the area. There is a statutory presumption, and according to the Courts, a strong one, against the grant of planning permission in instances where a scheme cannot be demonstrated to either preserve or enhance the character or appearance of the Conservation Area, unless these very strong considerations are outweighed by other material planning considerations. Case law

has established that an authority can only properly strike the balance between harm to a heritage asset on the one hand and planning benefits on the other if it is conscious of the statutory presumption in favour of preservation and if it demonstrably applies that presumption to the proposal it is considering. Harm to a Conservation Area must be given considerable importance and weight in that balance even if that harm is less than substantial.

6.2.2 Section 16: Conserving and enhancing the historic environment in the National Planning Policy Framework, (NPPF), indicates:

‘When considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset’s conservation (and the more important the asset, the greater the weight should be). This is irrespective of whether any potential harm amounts to substantial harm, total loss or less than substantial harm to its significance’ (para 193).

‘The effect of an application on the significance of a non-designated heritage asset should be taken into account in determining the application. In weighing applications that directly or indirectly affect non-designated heritage assets, a balanced judgement will be required having regard to the scale of any harm or loss and the significance of the heritage asset’. (para 197)

‘Local planning authorities should not permit the loss or harm of the whole or part of a heritage asset without taking all reasonable steps to ensure the new development will proceed after the loss has occurred’.(para 198)

‘Local planning authorities should look for opportunities for new development within Conservation Areas and World Heritage Sites, and within the setting of heritage assets, to enhance or better reveal their significance. Proposals that preserve those elements of the setting that make a positive contribution to the asset (or which better reveal its significance) should be treated favourably’. (para 200)

6.2.3 *‘Not all elements of a Conservation Area or World Heritage Site will necessarily contribute to its significance. Loss of a building (or other elements) which makes a positive contribution to the significance of the Conservation Area or World Heritage Site should be treated either as substantial harm under paragraph 195 or less than substantial harm under paragraph 196, as appropriate, taking into account the relative significance of the element affected and its contribution to the significance of the Conservation Area or World Heritage Site as a whole’.*(para 201)

‘Local planning authorities should assess whether the benefits of a proposal for enabling development, which would otherwise conflict with planning policies but which would secure the future conservation of a heritage asset, outweigh the dis-benefits of departing from those policies’ In this instance the heritage assets, (the Conservation Area and the non–designated Pauls Moss House)’.(para 202)

6.2.4 Paragraph 189 of the NPPF indicates: *‘In determining applications, local planning authorities should require an applicant to describe the significance of any heritage assets affected, including any contribution made by their setting. The level of detail should be proportionate to the assets’ importance and no more than is sufficient to understand the potential impact of the proposal on their significance. As a minimum*

the relevant historic environment record should have been consulted and the heritage assets assessed using appropriate expertise where necessary. Where a site on which development is proposed includes, or has the potential to include, heritage assets with archaeological interest, local planning authorities should require developers to submit an appropriate desk-based assessment and, where necessary, a field evaluation'. As indicated in this report the Conservation Area was drawn up to specifically include Pauls Moss House within its area.

- 6.2.5 Paragraph 190 indicates that, '*Local planning authorities should identify and assess the particular significance of any heritage asset that may be affected by a proposal (including by development affecting the setting of a heritage asset) taking account of the available evidence and any necessary expertise. They should take this into account when considering the impact of a proposal on a heritage asset, to avoid or minimise any conflict between the heritage asset's conservation and any aspect of the proposal*'. It is considered that this matter has been adequately considered by the Council's conservation team as referred to in paragraph 4.8 of this report.
- 6.2.6 Paragraph 192 indicates: '*In determining applications, local planning authorities should take account of:*
a) the desirability of sustaining and enhancing the significance of heritage assets and putting them to viable uses consistent with their conservation;
b) the positive contribution that conservation of heritage assets can make to sustainable communities including their economic vitality; and
c) the desirability of new development making a positive contribution to local character and distinctiveness'. This matter is further considered later in this report.
- 6.2.7 Paragraph 197 states: '*The effect of an application on the significance of a non-designated heritage asset should be taken into account in determining the application. In weighing applications that directly or indirectly affect non-designated heritage assets, a balanced judgement will be required having regard to the scale of any harm or loss and the significance of the heritage asset*'. (This matter is discussed in more detail later in the report). Whilst the Paul's Moss House on site is considered a non-designated heritage asset, it is located within the Whitchurch Conservation Area, a designated heritage asset in its own right. The Council's Conservation Manager's response is clear in that the mansion house known as Pauls Moss House has been intentionally included within the Whitchurch Conservation Area and that this makes a substantial, positive contribution to its character and appearance.
- 6.2.8 The starting point for the Local Planning Authority's assessment of the impact on the Conservation Area is the positive legal duty imposed upon it by Section 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990. When determining planning applications within Conservation Area this requires that "*...special attention shall be paid to the desirability of preserving or enhancing the character or appearance of that area.*". The fact that 'special attention' has to be paid to these considerations indicates that this issue should be assigned considerable weight in undertaking the planning balance.
- 6.2.9 The Council's Conservation response clearly states that the Conservation Area has been drawn up in this area in specific recognition of the Paul's Moss House and therefore this building is considered to make a significant and positive contribution to the Conservation Area (a designated heritage asset), The Conservation team

manager's response considers the current application under consideration will ensure this building retains its current scale and dominance within this part of the Conservation Area, as well as within the views from Dodington and Rosemary Lane. Comment is made that the Medical Centre has been positioned to provide a separation from the mansion, whilst the two storey flat roofed design will ensure that it sits well below the eaves level of the mansion. The response also comments that the contemporary architectural style of the medical centre will differentiate between the new build and the retained building, whilst the mixed palette of brickwork, glass, timber and render will create both interest and act to visually break up the form and scale of this part of the new building. Comment is also made that the north-west elevation and its flat roof design will ensure that the new build sits well below the eaves of the mansion house throughout its length and that the massing of the new built is broken up as a result of a different palette of external construction materials. Comment is also made that the proposed new public plaza has the potential to provide both a new setting for the retained mansion as well as providing a new area of public open space on site, this along with the terraces on the south-western side of the mansion and the glazing on the western elevation of the medical centre should ensure, as long as the development is executed well, that the retained mansion remains the focal point and key development within the overall development proposed on site. On this basis the development as proposed in relation to Pauls Moss House and its status as a non-designated heritage asset, it is considered that the development complies with Paragraph 200 of the NPPF.

6.2.10 As the site is located within the Conservation Area, the Council's Conservation Manager has also commented in relation to the scale and mass of the proposed new build acknowledging that new build development as proposed is very substantial. However comment is made that the development of three levels of construction, storey wise, is accommodated within the change of ground levels on site and that this in combination with the proposed flat roof design and its overall height in relation to the mansion house as commented on above will ensure that the development is subservient in terms of height to that of the mansion house, whilst the use of a variety of external construction materials will also help break up the massing of the proposed new build development. Whilst at the same time the scheme as proposed removes the negative contribution the existing on-site later residential development on makes towards the Conservation Area. As noted in the Conservation Manager's response to this application this part of the Whitchurch Conservation Area appears to have been drawn up to specifically include Pauls Moss House within its boundary. Taking all the points as raised by the Conservation Manager in response to the application, it is therefore considered the proposed development will cause no harm to the significance of the Conservation Area. With reference to Section 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990, it is considered that the retention of the mansion house would mean that the scheme preserves the character and appearance of the Conservation Area, whilst the overall design also offers some enhancement. For the same reason, and with reference to Section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990, it is considered that the proposed development will not affect the settings of any listed buildings.

6.2.11 It is acknowledged that Historic England in its response to the application has indicated that it considers the propose development entails a considerable change to the Conservation Area and should be assessed in terms of the policy set out in Section 16 of the NPPF. As Historic England acknowledge in their response, it is

clear that great weight should be given to the conservation of designated heritage assets (193) and that any harm or loss requires a clear and convincing justification (194), including public benefits where this harm is less than substantial (196). In considering new development in Conservation Areas the NPPF emphasizes the importance of enhancing or better revealing their significance (200) and considers that loss of a building that makes a positive contribution to significance should be treated as causing either substantial or less than substantial harm (201).

In this context Historic England has welcomed the retention and reuse of Pauls Moss House and the visual prominence given to it by insuring that new development sits below its eaves line. As such Officers consider the retention of the non-designated asset, (the mansion house), as proposed is welcomed and it is considered this will remain the dominant feature within the built environment and retain its significant presence within the Conservation Area to which it appears this part of the Whitchurch Conservation Area was drawn up to specifically include Pauls Moss House. Whilst the scale of the proposed new build is considered significant, it is considered to be broken up by means of a different palette of external construction materials, and in part taking advantage of the low ground levels will sit below the eaves height of the mansion house. Further still the existing residential development on site proposed for demolition, whilst acknowledging it is overall smaller in footprint and scale, is not considered to be of any significant contribution towards the surrounding Conservation Area to which it does not preserve or enhance. As such on balance, the concerns as raised by Historic England are not shared as overall it is considered that the proposed development will not cause harm to the significance of the Conservation Area as a result of the new build elements upon its character and appearance. As such it is considered that the proposed development will cause no harm to the significance of the Conservation Area. As has been commented upon by the Council's Conservation Manager, in reference to Section 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990, it is considered that the retention of the mansion house would mean that the scheme preserves the character and appearance of the Conservation Area, whilst the overall design also offers some enhancement, when compared to what is presently on site. With reference to Section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990, it is considered that the proposed development will not affect the settings of any listed buildings. Even if the response of Historic England was accepted that there was some less than substantial harm to the Conservation Area, the overall public benefits this development as a whole will bring to Whitchurch are considerable and would weigh against any such harm (paragraph 196 of the NPPF).

- 6.2.12 It is noted that in response to the application, Whitchurch Town Council as well as members of the public have raised concerns with regard to scale and mass and overall internal and external design. These matters were concerns in relation to the previous application subsequently approved by Committee with regards to loss of internal heritage fittings from within the Mansion House. In terms of the fixtures and fittings within the interior of the mansion house, as referred to by the SC Conservation Manager in response to the previous application, these fittings are not subject to planning control because the structure is not a listed building. It is noted that proposed development will entail the removal and alteration of some of the remaining historic fabric, through the removal of some walls, doors and doorways, timber panelling and a fireplace, however the main internal heritage feature is the hallway staircase and plaster ceiling mouldings, and it is understood these will

remain along with as much wall panelling where possible in consideration of the proposed refurbishment of the Mansion House for its proposed new use.

6.2.13 In relation to historic environmental impact, taking account of the issues outlined above, the proposed development is considered acceptable and in accordance with Policies CS6, CS17 and MD13 of the local plan and paragraphs 193, 194, 196, 197, 200 and 201 of the NPPF as well as Sections 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 and 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 with regard to special attention to the desirability of preserving or enhancing the character or appearance of Conservation Areas and section 38(6) of the Planning and Compulsory Purchase Act 2004 to determine planning applications in accordance with the development plan unless material considerations indicate otherwise.

6.3 **Siting, scale and design.**

6.3.1 Policy CS6 of the Core Strategy is concerned with delivering high quality sustainable design in new developments that respect and enhance local distinctiveness. This is further bolstered by SAMDev Policy MD2. In summary, these policies expect new development to be designed to be sustainable in the use of resources, including during the construction phase and future operational costs, reduced reliance on private motor traffic, be respectful of its physical, landscape setting and context and to incorporate suitable mitigation in the form of materials and landscaping. Significantly, Policy MD2 allows for appropriate modern design and promotes “embracing opportunities for contemporary design solutions, which take reference from and reinforce distinctive local characteristics to create a positive sense of place, but avoid reproducing these characteristics in an incoherent and detrimental style.”

6.3.2 Paragraph 127 of the NPPF indicates that decisions should ensure that developments, ‘are sympathetic to local character and history, including the surrounding built environment and landscape setting and are visually attractive as a result of good architecture, layout and appropriate and effective landscaping. Comment is also made that innovation and appropriate change should not be discouraged such as increased densities’.

6.3.3 While Pauls Moss House is considered an important historic and architectural feature within the site as discussed earlier in this report, it is also acknowledged that the free standing residential blocks built within the grounds of the house, are negative features, not of any architectural or historic significance and do not enhance the Conservation Area and therefore their removal is considered acceptable in principle.

6.3.4 It is considered the application retains the Mansion House which is a non-designated heritage asset as the primary built form, whilst its setting is catered for with the creation of the open space/plaza alongside its southern side. This helps in making the Mansion House the primary feature within the built environment, thus respecting the key feature of this area of the Conservation Area. Whilst it is acknowledged that the new build is extensive in scale, it is subservient in height sitting below the eaves of Pauls Moss House and with its various palette of external construction materials, considered on balance acceptable in relation to scale and design taking into consideration the existing built form on site it is to replace which is

considered to represent bland development that does not enhance or preserve the character of the Conservation Area.

- 6.3.5 As such the applicants' comments in their Planning Statement indicating that the development is designed around the need to retain Pauls Moss House and to provide for high quality supported residential units and adequate parking within an open landscaped setting and that the new build development responds to the site's opportunities and constraints in a positive way, whilst respecting the siting and mass of the existing Pauls Moss house, combining new and old building forms which will help facilitate all of the core project objectives, are accepted. The proposed building mass is a mix of two and three storey heights which alter across the site depending on the changing site levels whilst also considering distances between the retained Pauls Moss house and all neighbouring properties is understood and shared by officers. Detail as contained in the applicants Design and Access Statement indicates that the proposed building design and overall massing has been strongly influenced by the existing Pauls Moss house, adjacent residential properties along Dodington, Rosemary Lane and Pauls Moss Court. The proposed building heights, position of windows and balconies have been developed in order to prevent overlooking and over-bearance of the wider site context. The building form is predominantly three storeys in height with elements of two storeys such as the Health Centre broken down into plan shapes and built forms. The proposed building footprint is located in such a way as to have a reduced visual impact on the adjacent properties in particular to the Pauls Moss house which presides at 2.5 storeys in height. The retained Pauls Moss house forms the most dominant element of built form on the site with all new build elements being significantly lower in height than the original house itself. The design sits comfortably within the existing residential neighbourhood which is traditional brick dwellings with predominantly pitched tiled roofs. In order to reduce the overall mass of this mixed-use building a flat roof design approach has been proposed. The flat roof is edged in a combination of projecting aluminium stepped fascia system and pressed metal powder-coated copings. The height of the Extra Care scheme is lowered and stepped in the elevation closest to No. 1 Pauls Moss Court in order to connect with the two-storey height of the adjacent traditional pitched roofed private dwellings.
- 6.3.6 Also of importance in relation to development as proposed is the use of appropriate external construction materials. It is noted that the SC Conservation Manager has commented on how it is necessary to show consideration to replacing the existing plain tiles on the roof of the retained mansion house and to replace the windows with double glazed uPVC units to a similar design. The existing plastic gutters and down pipes will be replaced with powder coated metal rainwater goods, and the decorative hoppers replaced to match where necessary. To maintain the contribution the building makes to the character and appearance of the Conservation Area, it is essential that the roof tiles represent a like-for like replacement and that the new windows are high quality uPVC sashes. Similarly, the replacement of the rainwater goods should provide an enhancement provided that they are of a suitable colour and design. The existing lead hoppers should be retained if at all possible. Also of importance is the external construction of the new build on site. It is recommended that conditions are attached to any approval notice issued to cover this aspect as recommended in appendix one attached to this report.

- 6.3.7 In terms of siting, scale and design, the development is of significant scale, but with consideration to the existing on site structures proposed for removal and with consideration to the material considerations discussed in this report, it is considered to be in accordance with Policies CS6 and MD2 of the local plan as well as the NPPF.
- 6.3.8 Also as indicated in paragraph 4.8 on the basis of the results of the archaeological evaluation that was undertaken in February 2020 the proposed development site is considered to have low-negligible archaeological potential. As a consequence, it is recommended that no further archaeological mitigation will be required on the proposed development site and, as a result, that an archaeological planning condition will not be required if planning permission is granted.



6.4 **Visual impact, landscaping and open space provision**

- 6.4.1 Policy CS6 ‘Sustainable Design and Development Principles’ of the Shropshire Core Strategy encourages development that improves the sustainability of communities whilst requiring development to protect and conserve the natural, built and historic environment and be appropriate in scale, density, pattern and design taking into account the local context and character. The development should also safeguard residential and local amenity, and the achievement of local standards for the provision and quality of open space and ensure sustainable design and construction principles are incorporated within the new development.
- 6.4.2 In addition SAMDev Policy MD2 Sustainable Design builds on Policy CS6 providing additional detail on how sustainable design will be achieved. To respond effectively to local character and distinctiveness, development should not have a detrimental impact on existing amenity value but respond appropriately to the context in which it is set.
- 6.4.3 Policy CS17 ‘Environmental Networks’ states that development will identify, protect, enhance, expand and connect Shropshire’s environmental assets and does not

adversely affect the visual, heritage or recreational values and functions of these assets, their immediate surroundings or their connecting corridors. In addition, SAMDev Policy MD12: The Natural Environment builds on Policy CS17 providing development which appropriately conserves, enhances, connects, restores or recreates natural assets.

6.4.4 Also, SAMDev Policy MD13: The Historic Environment states that in accordance with Policies CS6 and CS17 and through applying the guidance in the Historic Environment SPD, Shropshire's heritage assets will be protected, conserved, sympathetically enhanced and restored.

6.4.5 It is noted that Annex 2 of the National Planning Policy Framework defines 'older people' as follows:

- *People over or approaching retirement age, including the active, newly-retired through to the very frail elderly; and whose housing needs can encompass accessible, adaptable general needs housing through to the full range of retirement and specialised housing for those with support or care needs.*

Thus, this recognises the point that older people can have a wide range of care needs. The residential element of this application is focussed on older people with mostly extra care needs. Thus, their needs are not being considered on the basis of age. Rather, their needs are being considered specifically on account of them requiring extra care.

6.4.6 The Design and Access Statement in support of the application indicates that the residential aspect of the development is for '71 apartment Extra Care supported living residential scheme for the over 55's. The applicant's Planning Statement indicating it is for individuals who are mostly in need of extra care. Extra care housing is defined in the Planning Practice Guidance as:

***“Extra care housing or housing-with-care:** This usually consists of purpose-built or adapted flats or bungalows with a medium to high level of care available if required, through an onsite care agency registered through the Care Quality Commission (CQC). Residents are able to live independently with 24 hour access to support services and staff, and meals are also available. There are often extensive communal areas, such as space to socialise or a wellbeing centre. In some cases, these developments are known as retirement communities or villages - the intention is for residents to benefit from varying levels of care as time progresses.”¹*

6.4.7 This definition is adopted for the purposes of this report. It is noted that this definition refers to 'extensive communal areas', which the open space in the development would provide.

6.4.8 The Claimant's application for judicial review asserted that the Council were having regard for a protected characteristic under the Equality Act 2010. The characteristic was considered to be either age or disability. For the avoidance of doubt, residents in extra care housing are not being considered on account of their age and any such

resident is not necessarily disabled. Rather, the prospective residents of the proposal ought to be considered as individuals with extra care needs. Thus, it is not accepted that the public sector equality duty within section 149 of the Equality Act 2010 applies to these individuals.

6.4.9 However, as an abundance of caution, members ought to consider whether the development will meet the tests set out in the public sector equality duty in any event and thus members should have regard to the need to:

(a) eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by the Equality Act 2010 towards disabled/older people;

(b) advance equality of opportunity between older/disabled people and persons who do not have these protected characteristics;

(c) foster good relations between persons who are disabled/older and persons who do not have these protected characteristics.

Further, members ought to have regard to the need to:

(a) remove or minimise disadvantages suffered by persons who share a relevant protected characteristic that are connected to that characteristic;

(b) take steps to meet the needs of persons who share a relevant protected characteristic that are different from the needs of persons who do not share it;

(c) encourage persons who share a relevant protected characteristic to participate in public life or in any other activity in which participation by such persons is disproportionately low.

The proposal is considered to meet all of these factors in any event.

6.4.10 The proposal does offer less open space than is required by Policy MD2 of the development plan. However in order to ensure adequate social meeting space and relaxation area for residents and to provide choice of living arrangements within Whitchurch and surrounding area it is vital that any space is of high quality. The Planning Statement indicates that a key connecting feature between the Extra Care and the new Health Centre is the circular Hub and central public plaza which will bring people together and will become the focal point of the scheme. The area is accessible for all key user groups and offers the opportunity for the Café to spill out into a south facing terrace for users to enjoy. The proposal includes a paved public plaza space directly outside the main house which runs between Pauls Moss and the proposed health centre. This outdoor, public amenity space will be a mix of paved hard surfacing including Breedon gravel, soft landscaping, feature trees and boxed hedging and street furniture. The site plan also contains other pockets of open space for the benefit of residents on site.

6.4.11 The applicants have submitted a visual impact assessment and this concludes that the scheme will have only negligible or slight effects on visual setting, consideration

has been given to the surrounding Conservation Area, setting of Paul's Moss House and the setting of listed buildings located outside of the application site. The changes to setting that the construction of the proposed buildings (whilst acknowledging they are larger in scale than those to be replaced), in relation to the historic landscape are also considered slight.

- The applicants planning statement indicates that the proposal is of much better quality than the existing provision on site and compared to the previous application for development on site subsequently refused in that this proposal includes provision for Open space and landscaping proposals to meet the needs of the residents and visitors
- The council have established precedent for high quality open space provision at a lesser size than they consider policy requires when such space is designed and intended to be used by older people.

6.4.12 Whilst it is acknowledged that this application does not provide for the standard required open space in relation to bedroom ratio in respect of standard residential development, it is acknowledged that this application is for development for persons mostly in extra care needs. It is considered that the managed communal open space offered by this proposal would be a much better provision than simply requiring open space in accordance with the bedroom ration within Policy MD2. It is considered that the proposed open space on the site will contribute towards providing choice in living arrangements and attracting and inviting people from the wider community to engage with each other providing opportunities to develop new relationships across all age ranges and backgrounds. Thus, the open space being offered is better than simply the bedroom ratio stipulated by Policy MD2. Furthermore, the open space is of a much better design and quality than the open space for most developments of this nature. It is acknowledged that alternative plans have been proposed by objectors, however, officers are of the view that these alternative plans do not meet the same design quality and sense of integration that the current proposals would achieve.

6.4.13 Accordingly, whilst in terms of quantum the proposal offers less open space than stipulated by Policy MD2, the proposal offers better quality than would be required to comply with Policy MD2. This would make a better proposal irrespective of the intended residents of the development. However, it is considered that, having particular regard to the fact the prospective residents will mostly be in extra care needs, the open space in particular will be well suited to their needs. Indeed, this sort of managed communal space will effectively encourage participation in public life, as people of all ages will be attend and interact at this open space and thus, it will foster good relations in this sense between the prospective residents and those not in extra care needs. It will also assist with meeting the needs of those in extra care through allowing them to have further interaction with members of the public in this sense, including some of whom may have mobility issues. Moreover, the circular routes of the open space will further enhance the sense of integration and provide for an attractive walking space for many prospective residents.

6.4.14 In summary, the open space is far better in terms of quality as opposed to quantity than Policy MD2 requires. It is not considered that this same quality could be achieved whilst increasing the quantum of open space, as this would inevitably lead to amendments to the scheme that would undermine the sense of integration that is achieved through the current design.

- 6.4.15 It ought to be noted that the ongoing judicial review suggested that there was some disadvantage/discrimination towards the prospective residents. However, to the contrary, officers have worked with the applicant to secure the best possible design and open space provision. Through this engagement, officers are satisfied that an acceptable scheme has been arrived at – this being acceptable irrespective of whether this was for those in extra care or for the public at large. Albeit, officers are of the view that the proposal does meet the needs of those in extra care in particular, including the fact that those in extra care benefit from extensive communal areas, which the open space on offer would provide.
- 6.4.16 In the event that the public sector equality duty does apply, contrary to the view of officers, on account of the residents being elderly or disabled, officers are of the view that the duty is still discharged. Officers have worked to ensure that a scheme of open space is delivered that is better than the requirements of Policy MD2 would require. Indeed, the quality of the open space, with the sense of integration offered through the central hub and circular routes makes the specific open space on offer better, irrespective of who it is intended for. But this particularly applies to those in extra care, many of whom may have mobility issues and, irrespective of mobility issues, benefit from extensive communal areas, which this managed open space would provide.
- 6.4.17 Officers' views, therefore, remain from the previous application. However, members are reminded to not treat the previous approval as a material consideration in the determination of the current application and ensure that they consider matters afresh.
- 6.4.18 A tree survey and tree protection plan accompany the application and this indicates that *in compensation for the loss of any trees and hedgerows on site as a result of the development that at least an equal number of new trees and length of native hedgerow will need to be planted. The trees will be species of both native and non-native origin, that have wildlife benefits and are sympathetic both to the existing tree structure and suitable for their likely eventual size limitation. All trees will be planted as 9-10cm Light Standards. All appropriate British Standards will be applied in terms of planting specifications. The location of the replacement trees should be determined in a detailed landscape design plan including location and species.*
- 6.4.19 Whilst it is disappointing that some existing vegetation will be lost as a result of the proposed development, not all vegetation on site is considered to be of a high value. (A lime tree to the south of the site is one of the most important trees that unfortunately will be lost as a result of the proposed development). However it is noted that the Council's Tree Manager has responded to the application indicating that having read the tree report and new landscaping scheme I raise no objections to this proposal. I support the planting of 53 new heavy standard trees in mitigation for some tree losses on site to facilitate the proposals. Therefore, on balance, notwithstanding the loss of some existing vegetation the trees element of the scheme is considered to be acceptable.
- 6.4.20 It must also be appreciated that the development is for creation of new accommodation for use as extra care facilities and does not replace any existing

extra care facility and thus does not prejudice potential future occupants in need of extra care but aims to provide wider choice in living arrangements for residents of the surrounding Community. In order to ensure the development is executed to a high standard with consideration to the Pauls Moss House and the open space plaza area in front of the Mansion House as proposed, as well as the other pockets of open space, and the overall contribution towards the Conservation Area, it is recommended that conditions are attached to any approval notice issued, in order to ensure adequate consideration to landscaping. With consideration to the issues as discussed it is considered the concerns on this matter as outlined in the previous refusal for the site are addressed to an acceptable standard.

6.4.21 Given the above in relation to landscape and overall visual impact, on balance and overall and in order to provide the Community with a **wide choice of living arrangements**, in consideration of the circumstances, it is considered by Officers, that the development is broadly in accordance with Policies CS6, CS17, MD2 and MD12 of the local plan as well as the NPPF in relation to landscaping and visual impacts and that there is not conflict in relation to the Equality Act 2010 as the proposal simply is aiming to provide the local community with choice in living arrangements as the type of residential development to be offered is considered to be in short supply and this is reflected in the wide amount of support the proposed development, (as a whole), has received to previous applications for development on site of this nature.

6.5 **Economic and social benefits**

6.5.1 Paragraph 80 of the NPPF indicates that planning policies and decisions should help create the conditions in which businesses can invest, expand and adapt. It also requires that significant weight should be placed on the need to support economic growth and productivity, taking into account both local business needs and wider opportunities for development.

6.5.2 Paragraph 82 of the NPPF indicates that planning policies and decisions should recognise and address the specific locational requirements of different sectors.

6.5.3 Policy CS3 refers to development in market towns and key centres, which will maintain and enhance their roles in providing facilities and services to their rural hinterlands and providing foci for economic development and regeneration, on an appropriately located mostly brownfield site.

6.5.4 Policy CS13 of the Shropshire Core Strategy indicates support for Shropshire's Market Towns, developing their role as key service centres, providing employment and a range of facilities and services accessible to their rural hinterlands in accordance with Policy CS3, which indicates balanced housing and employment development of an appropriate scale and design that respects each town's distinctive character and is supported by improvements in infrastructure. Policy CS11: Types and affordability of Housing seeks to create mixed, balanced and inclusive communities which includes supporting the provision of housing for vulnerable people and specialist housing provision such as extra care facilities.

- 6.5.5 Policy CS15 indicates that recognised town and key centres will be the locations for new retail, office and other town centre uses. As such the location for development in principle is considered acceptable.
- 6.5.6 The application proposes a significant quantum of development which in principle is recognised and supported having regard to the policies outlined above. It is acknowledged that there has been significant housing growth in Whitchurch and this will have had an effect on the health services within the town. The Pauls Moss development is designed to accommodate this growth in population, as well as provision in relation to an aging population.
- 6.5.7 The development as proposed will deliver a significant number of benefits to the community. The generic benefits include:
- Improved GP services
 - Improved health services
 - Provision of age specific housing for older people
 - Provision of affordable housing
 - Inward investment
 - Job creation
 - Economic impact
- 6.5.8 With regards to job creation, some of these will be short term through the development and construction phases and some will be permanent within the completed building. In addition to these jobs, there are existing jobs that will be protected and the local supply chain will benefit in terms of servicing the development once it is operational. It is estimated that the equivalent of up to 30 further part time jobs could be created within the wider economy.
- 6.5.9 The project will also deliver a wide range of intangible benefits such as:
- Wider range of accommodation choices for older people
 - Improved access to primary care and new models of care
 - Increased capacity for clinical services out of hospital
 - Extended hours for GP access
 - Greater GP training capacity
 - Modern healthcare environment that meets current NHS standards
 - Delivery of Shropshire Care Closer to Home strategy
 - Increased levels of wellbeing
 - Better community cohesion
 - Increased social interaction
 - Reduced isolation for elderly residents
 - Better mental health outcomes
 - Development of social prescribing
 - Volunteering opportunities
 - Better community outcomes from joined up approach to delivery of service
 - Fully accessible buildings
- 6.5.10 Historic England in response to the application indicated concerns regarding the application on heritage grounds in respect of the amount of new building proposed

and its large areas of flat roof which they consider will change the character of the Conservation Area and result in some harm, and therefore they consider that an assessment has to be made of the application in accordance with paragraph 196 of the NPPF in relation to the public benefits offered. They do not suggest that the harm they have identified amounts to substantial harm.

- 6.5.11 The application proposes the retention of Pauls Moss House and it is noted that Historic England in response to the previous application subsequently refused stated that 'It appears to Historic England that the inclusion of the site in the conservation area is reliant on the survival of the house itself. Without the house the site makes a minimal contribution to the evidential and historical value of the conservation area and none its aesthetic value.'
- 6.5.12 The SC Conservation Team disagree with Historic England that the proposed development will cause harm to the significance of the Conservation Area as a result of its impact of the new build elements upon its character and appearance. They consider that the proposed development will cause no harm to the significance of the Conservation Area. With reference to Section 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990, they consider that the retention of the mansion house would mean that the scheme preserves the character and appearance of the Conservation Area, whilst the overall design also offers some enhancement. For the same reason, and with reference to Section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990, they likewise consider that proposed development will not affect the settings of any listed buildings.
- 6.5.13 The Case Officer having reviewed both responses and noting Historic England do not object outright to the application, share's the view as set out by the SC Conservation Manager. As such the criteria of paragraph 195 of the NPPF are not engaged, as it is considered that the development will not lead to substantial harm to the Conservation Area and its historic setting. Furthermore paragraph 196 is not engaged as it not accepted that any harm will be caused to the significance of the heritage asset. Notwithstanding that view the development will provide benefits to the surrounding community whilst offering a re-use of the mansion house and as such if there is less than substantial harm, the development is in accordance with paragraph 196 of the NPPF.
- 6.5.14 It is acknowledged that improved health care provision and facilities are an identified local infrastructure requirement and the situation with regard to current health care provision within Whitchurch is noted and this would accord with relevant development plan policies. As such it is considered that this application in relation to impacts and the economic and social benefits is acceptable and in accordance with the NPPF.

6.6 **Public highway access and on-site transportation issues.**

- 6.6.1 The applicants have submitted a Highways Transport Assessment and Highways Travel Plan. The SC Highways Manager raises no significant concerns in relation to the proposal indicating whilst it is acknowledged that there have been some local concerns regarding the scheme, the highway authority appreciate that the scheme has reduced to that previously promoted, particularly with the removal of the former

pharmacy facility. It is not considered that this development would give rise to any highway and pedestrian safety concerns.

6.6.2 It is acknowledged that car parking has been raised as a material consideration locally including from the Town Council, specifically the level of parking provision on the site. However the site is located within the town centre, within reasonable walking distance of public car parks. The Travel Plan should seek to help in reducing car borne traffic to the site for both staff, visitors and patient. Residents of Pauls Moss Court concerns with regards 'seven visitor car parking spaces' located at the rear of the site is not considered a direct planning issue and it is noted that the submitted plans do not indicate construction works in this area.

6.6.3 Should any resident wish to discuss their lease interpretations they should in the first instance contact their landlord Great Places formerly Equity housing, The Wrekin Housing Group is not able to discuss these matters directly. However we are happy to liaise with Great Places as required.

6.6.4 Ultimately in terms of car parking provision, the SC Highways Manager indicates that fundamentally the Council would have to demonstrate that the level of parking provision was so inadequate that it would result in 'severe impact' in the locality. He does not consider that this is the case and no information or evidence has been presented which suggests otherwise. Consideration has also been given to emergency and service vehicles and servicing the site.

6.6.5 Whilst concerns as raised by members of the public and Whitchurch Town Council with regards to on site traffic movements and impacts in relation to car parking for residents of Pauls Moss Court are acknowledged, it is considered that with appropriate conditions attached to any approval notice issued with regard to a travel plan, on site construction and parking and with consideration to the fact that this site is near to the town centre, that on balance highway and parking arrangements are considered satisfactory and in accordance with local plan policies and the NPPF.

6.7 **Other matters.**

6.7.1 **Drainage.**

6.7.2 A drainage strategy and flood risk assessment accompanies the application and conclusions indicate that in accordance with the Environment Agency Flood Maps the site is outside of a recognised floodplains and therefore within Flood Zone 1. The proposed Extra Care facility, GP Surgery and Community Hub re-development have finish floor levels set 150mm above the proposed surrounding ground levels to mitigate against any possible groundwater flooding and pluvial flooding. Dry access and egress is available to and from the building always via the proposed access onto Dodington adjacent to the north eastern boundary of the site. In terms of the risk of flooding from pluvial sources (surface water runoff), a surface water drainage strategy has been prepared. The strategy proposes to discharge surface water to ground via infiltration tanks with an emergency overflow controlled to 50% of the existing peak discharge rate for the 1% AEP into the existing off-site surface water sewers in case of future failure of the infiltration system. Providing the mitigation measures or similar measures are implemented it is considered that the risk of flooding to the site and adjacent land will be minimal.

6.7.3 SC Drainage response raises no objections indicating that the proposed surface water drainage is acceptable. It is recommended that any approval notice issued has a condition attached in order to ensure adequate sustainable surface and foul water drainage is installed on site. The site is located above Queens Park alongside a sensitive part of the park that appears to be wetland species rich and therefore potentially sensitive in nature. This and drainage issues are a matter of concern raised by Whitchurch Allotment and Community Orchard Association. Issues as raised by members of the public with regards to drainage and infrastructure on site have been considered and this matter is considered acceptable. With a condition in respect of surface water drainage attached to any approval notice, on balance the proposed development is considered acceptable and in accordance with local plan policies on drainage matters.

6.7.4 **Ecology**

6.7.5 The applicants have submitted a Phase 1 Preliminary Ecological Appraisal (Stefan Bodnar, September 2017). The Council's Planning Ecologist has responded indicating the level of survey work including reference to bats is satisfactory, recommending conditions and informatives' are attached to any approval notice. Comments previously made by Whitchurch Allotment and Community Orchard Association have been noted, however these ecological issues are not considered to be of a concern. As such ecological matters with conditions attached as recommended is considered acceptable.

6.7.6 **Residential amenity**

6.7.7 Core Strategy policy CS6 requires that developments safeguard residential and local amenity. The applicants have submitted a noise assessment and impact assessment in relation to the dwellings known as Pauls Moss Court located on the southern side of the application site.

6.7.8 The assessment concludes that there will be no significant impacts in relation to the residential amenity of the occupants of Pauls Moss Court.

6.7.9 Officer have considered residential amenity and privacy in relation to all surrounding dwellings to the application site, and have concluded that impacts on occupiers of these dwellings is acceptable. It is appreciated that the occupiers of Pauls Moss Court have raised concerns in relation to development on site and its scale and mass, as well as in relation to car parking issues. It has been acknowledged that development on site will be of a larger scale than that as presently on site, and as such it is appreciated that residents could have some concerns with regards to development as proposed. However, development will be broadly in-line with respect of existing development on site and overall will not encroach significantly nearer to the dwellings at Pauls Moss Court. Planning does not allow for a right to a view.

6.7.10 However, it is acknowledged that development on site is significant and includes considerable demolition works. As such it is considered appropriate to attach conditions to any approval notice issued with regards to working hours, dust and construction management and noise attenuation. A condition in relation to noise mitigation, is required in consideration of the amenity of the occupants of the

proposed residential development, based on the recommendations of the noise report provided with the application. This report indicated that existing noise levels from road traffic would result in the internal noise levels, in some of the habitable rooms, exceeding recommended levels with the windows open for ventilation, acceptable noise levels can be achieved with standard double glazing but an alternative form of ventilation capable of replacing the need to open windows would be required based on the information provided as referred to. The proposed mitigation is clearly referred to in the conclusions of the applicants' noise report and Chapter 5 of the report provides detail regarding which properties will require mitigation.

- 6.7.1
1 Concerns have been raised by members of the public with regards to lack of consultation in relation to this application. Whilst it is acknowledged that the NPPF encourages public consultation prior to submission of a formal planning application, this is not a statutory requirement. It is understood the applicants did consult with the community with regards to the principle of development on site in relation to the previous application for development on site subsequently refused.

7.0 THE PLANNING BALANCE.

- 7.1 Section 38(6) of the Planning and Compulsory Purchase Act 2004 provides that where regard is to be had to the development plan for the purpose of any determination to be made under the Planning Acts, the determination must be made in accordance with the plan unless material considerations indicate otherwise. The starting point must be the Development Plan and then other material considerations must be considered and weighed up against the requirement also to have special regard to the desirability of preserving or enhancing the character or appearance of the Conservation as required by s72 of the planning (Listed Buildings and Conservation Areas) Act 1990.
- 7.2 It is acknowledged that the proposal does not offer the quantum of open space specified by Policy MD2. However, Policy MD2 is a multi-faceted policy that addresses numerous points. The proposal gains support from the policy through responding positively to local design aspirations, responding to local heritage concerns, including natural and semi-natural features and demonstrating good standards of sustainable design (amongst other things). Thus, the proposal is in conformity with Policy MD2 on balance, notwithstanding the fact that the open space quantity set out in the policy is not met.
- 7.3 However, even if it was considered that this gave rise to some conflict with the policy, it is not considered that this minor breach would warrant a finding of conflict with the development plan as a whole (per **R.(oao William Corbett) v Cornwall Council** [2020] EWCA Civ 508)*. Thus, it is not considered that this gives rise to any conflict with the development plan. However, even if that is wrong, the weight to be attached to any such breach ought to be minimal, given that the open space that is offered is superior in quality to the overwhelming majority of open space that accompanies development of this nature. By contrast, the benefits of the proposal, applying the statutory test in s.38(6) of the Planning and Compulsory Purchase Act 2004, would still suggest that there would be material considerations that ought to outweigh any such conflict.

(* Court of Appeal judgment that held that that notwithstanding a proposal's conflict with some policies in a development plan which can pull in different directions, a local planning authority is entitled to conclude that it complied with the development plan as a whole bearing in mind the relative importance of the policies in play and the extent of the compliance or breach)

- 7.4 Accordingly, no matter the approach to Policy MD2, the proposal should still be granted planning permission.
- 7.5 Having carefully considered the proposal against adopted planning policy and guidance, it is considered that the proposal on balance, (with consideration to the public benefits this scheme will offer to the wider community), overall complies with relevant policies of the local plan and the NPPF. It is not considered in this case that the tests in paragraph 195 of the NPPF are engaged as the proposal overall will not lead to substantial harm to the surrounding historic environment. It is not considered that any harm will occur to the designated historic asset but it will in any event provide wider public benefits. The Pauls Moss mansion does not appear to have had any significant use during latter years, and it is considered that this proposal will ensure a viable use as part of the overall development for the site. Development which will replace existing poorly designed structures which do not preserve or enhance the surrounding Conservation Area. Whilst it is acknowledged that the replacement new build is of larger scale, it has been considered in relation to the setting of the mansion house which will remain the dominant feature. Landscaping and open space provision whilst minimal in area, as long as this is executed to a high standard is on balance considered acceptable. As such it is essential that sufficient consideration is given to detail, (external construction materials), and this can be ensured by the attaching to any approval notice issued suitably worded conditions.
- 7.6 The NPPF is intended to deliver sustainable development, there is a presumption in favour of this and it identifies three mutually dependent dimensions which should be sought jointly and simultaneously through the planning system, namely: an economic role; a social role; and an environmental role. Officers consider there will clearly be economic and social benefits arising from the development, mainly attributable to the provision of improved health facilities for the town of Whitchurch and its hinterland as well as an Extra Care facilities that will consist of 71 apartments, with a mixture of one and two bedrooms and the community hub. These are significant material considerations on which basis to determine the application.
- 7.7 Provision of improved health care in Whitchurch is to be welcomed and it is noted that this aspect is generally supported in consideration of responses received in relation to the application. Health care provision within Whitchurch appears to be fragmented and whilst it is acknowledged that it could be debated whether providing GP services in one location is more sustainable or not, there is no doubt the facilities as proposed will be an overall improvement on the existing facilities provided within the town.
- 7.8 The economic and social contributions are recognised and with consideration to the retention of the Pauls Moss House and its re-use and its dominance in relation to the proposed new build, (height), and high quality landscaping in order to aim to provide choice of living arrangements for residents of the surrounding community, the

proposal tips the balance of the environmental considerations to a positive conclusion and as the NPPF makes clear in Section 2 on achieving sustainable development, these overarching objectives are interdependent and need to be pursued in mutually supportive ways.

8.0 **CONCLUSIONS**

- 8.1 The merits of the proposal are considered acceptable with no adverse impacts overall in relation to the surrounding Conservation Area and its historic features including reference to the non-designated heritage asset, (the mansion house), as well as the listed buildings in the surrounding area.
- 8.2 On balance with consideration to all the material considerations it is considered that this application is in accordance with local plan policies CS3, CS6, CS9 and CS17 of the Shropshire Core Strategy, policies MD1, MD2, MD8, MD12, MD13 and S18 of the SAMDev as well as the NPPF and Section 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990.
- 8.3 As such the recommendation is approval delegated to the Service Manager, subject to the conditions as outlined in appendix one attached to this report with any modifications to these conditions as considered necessary by the Planning Service Manager.

9.0 **Risk Assessment and Opportunities Appraisal**

9.1 **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.

9.2 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.

9.3 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.

10.0 Financial Implications

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

10. Background

Relevant Planning Policies

Central Government Guidance:

West Midlands Regional Spatial Strategy Policies:

Core Strategy and Saved Policies:

CS1 - Strategic Approach

CS3 - The Market Towns and Other Key Centres

CS6 - Sustainable Design and Development Principles

CS11 - Type and Affordability of housing

CS13 - Economic Development, Enterprise and Employment

Economic Development, Enterprise and Employment

CS15 - Town and Rural Centres

CS17 - Environmental Networks

CS18 - Sustainable Water Management

MD1 - Scale and Distribution of Development

MD2 - Sustainable Design
 MD4 - Managing Employment Development
 MD8 - Infrastructure Provision
 MD10A - Managing Town Centre Development
 MD12 - Natural Environment
 MD13 - Historic Environment
 Settlement: S18 - Whitchurch
 National Planning Policy Framework
 SPD Sustainable Design Part 1
 SPD Type and Affordability of Housing

RELEVANT PLANNING HISTORY:

PREAPP/18/00245 Demolition of existing sheltered housing accommodation and general needs flat and erection of retirement living scheme, health centre, pharmacy and community hub PREAMD 27th July 2018
 18/05901/FUL Proposed re-development to include the demolition of Pauls Moss and associated supported living accommodation; erection of one building comprising 74 supported residential units; health centre, pharmacy, central hub space of cafe and community rooms; 85 car parking spaces, alterations to existing vehicular access, creation of two new vehicular accesses (Rosemary Lane and Dodington); landscaping scheme including removal of trees; link to adjacent public open space REFUSE 28th June 2019
 PREAPP/19/00238 Pre-application advice for the re-development of Pauls Moss PREAIP 1st August 2019
 19/03861/FUL Re-development to include conversion of house to form cafe/community hub and flats; erection of 71 sheltered residential apartments; erection of health centre building; landscaping scheme including removal of trees; formation of car parking spaces and alterations to existing vehicular access GRANT 18th October 2019
 20/01284/FUL Redevelopment to include conversion of house to form cafe/community hub and flats; erection of 71 sheltered residential apartments; erection of health centre building; landscaping scheme including removal of trees; formation of car parking spaces and alterations to existing vehicular access PDE

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) Councillor Gwilym Butler
Local Member Cllr Gerald Dakin
Appendices

APPENDIX 1

Conditions

STANDARD CONDITION(S)

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

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

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

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

CONDITION(S) THAT REQUIRE APPROVAL BEFORE THE DEVELOPMENT COMMENCES

3. No development shall take place, including demolition, ground works and vegetation clearance, until a lighting plan has been submitted to and approved in writing by the Local Planning Authority.

The plan shall:

- o identify those areas/features on site that are particularly sensitive for bats, where lighting is likely to cause disturbance in or around their breeding sites (including bat boxes/bricks) and resting places or along important routes (e.g. site boundary routes) used to access key areas of their territory, for example for foraging; and
- o show how and where external lighting shall be installed (through provision of appropriate lighting contour plans and technical specifications) so that it can be clearly demonstrated that areas to be lit will not disturb or prevent the above species using their territory or having access to their breeding sites and resting places.

All external lighting shall be installed strictly in accordance with the specifications and locations set out on the plan, and thereafter retained for the lifetime of the development. Under no circumstances should any other external lighting be installed without prior consent from the Local Planning Authority. The submitted scheme shall be designed to take into account the advice on lighting set out in the Bat Conservation Trust's Guidance Note 08/18 Bats and artificial lighting in the UK

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

4. Prior to any development on site details will be submitted to the local planning authority and approved in writing with regards to sustainable foul and surface water drainage.

Development will be carried out as approved prior to any occupation of the site.

Reason: In order to ensure the site is served by a satisfactory means of drainage in relation to the surrounding area.

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

- o the parking of vehicles of site operatives and visitors
- o loading and unloading of plant and materials
- o storage of plant and materials used in constructing the development
- o the erection and maintenance of security hoarding including decorative displays and facilities for public viewing, where appropriate
- o wheel washing facilities
- o measures to control the emission of dust and dirt during construction
- o a scheme for recycling/disposing of waste resulting from demolition and construction works
- o a Construction Traffic Management Plan, including all HGV routing & unloading proposals;
- o an appropriate community liaison and communication strategy, to inform affected local residents and businesses, throughout the works.

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

6. No ground clearance, demolition, or construction work shall commence until a tree protection scheme has been submitted to and approved in writing by the local planning authority to safeguard trees to be retained on site as part of the development. The approved scheme shall be implemented in full prior to the commencement of any demolition, construction or ground clearance and thereafter retained on site for the duration of the construction works.

Reason: To safeguard existing trees and/or hedgerows on site and prevent damage during building works in the interests of the visual amenity of the area, the information is required before development commences to ensure the protection of trees is in place before ground clearance, demolition or construction.

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

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

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

8. Prior to any above grounds works a suitable scheme for the provision of electric vehicle charging points will be submitted to and approved in writing by the Local Planning Authority. The approved scheme shall be completed prior to the use commencing and shall thereafter be retained.

Reason: Paragraph 35 of the NPPF states; "Plans should protect and exploit opportunities for the use of sustainable transport modes for the movement of goods and people. Therefore, developments should be located and designed where practical to, amongst other things, incorporate facilities for charging plug-in and other ultra-low emission vehicles."

9. Prior to the above ground works samples and/or details of the metal rainwater goods to be used on the retained Pauls Moss mansion and rainwater goods in relation to all new build construction on site shall be submitted to and approved in writing by the Local Planning Authority. The decorative rain hoppers on the Pauls Moss House will be retained. The development shall be carried out in complete accordance with the approved details.
Reason: To ensure that the external appearance of the development is satisfactory.

10. Notwithstanding the approved plans no above ground works shall be commenced until full details of hard and soft landscape works have been submitted to and approved in writing by the local planning authority. The landscape works shall be carried out in full compliance with the approved plan, schedule and timescales within the first planting season following completion of the new build external construction on site. Works shall be carried out as approved.

The details will include provision for:

- layout and design of the landscaped areas both soft and hard.
- Size and type of vegetation species to be planted.
- Maintenance schedule in order to ensure their survival and maintenance.
- Any species that fail within the first five years will be replaced in the following planting season with varieties of similar species and size.
- Detail of species to be retained on site and their position.
- Detail of all outdoor furniture to be installed including their construction, colour and size.

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

11. Notwithstanding the detail in support of the application prior to any above ground works details will be submitted to the local planning authority with regards to all external construction materials in relation to new build building development on site. Development will be carried out as approved.

Reason: In order to ensure external building development is of satisfactory construction in consideration of the surrounding Conservation Area and scale of development as approved.

12. Prior to the above ground works commencing samples and/or details of the plain clay roof tiles to be used on the retained Pauls Moss mansion shall be submitted to and approved in writing by the Local Planning Authority. The development shall be carried out in complete accordance with the approved details.

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

13. Prior to the above ground works details of the windows to be fitted in the retained Pauls Moss mansion shall be submitted to and approved in writing by the Local Planning Authority. The development shall be carried out in complete accordance with the approved details.

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

14. The development hereby permitted shall not be brought into use until a car parking management plan has been submitted to and approved in writing by the Local Planning Authority. Details within this plan will include allocation of spaces and strategy for the instructional and directional signage of the parking within the site and that available off site. The parking shall be delivered in accordance with this plan, also properly laid out, hard surfaced and drained prior to first occupation of the facility and then maintained as such for the lifetime of the development.

Reason: To ensure the provision of adequate and managed car parking provision within the site, to avoid congestion on adjoining roads and to protect the amenities of the area.

15. Prior to first occupation / use of the buildings, the makes, models and locations of bat and bird boxes shall be submitted to and approved in writing by the Local Planning Authority. The following boxes shall be erected on the site:

- A minimum of 10 external woodcrete bat boxes or integrated bat bricks, suitable for nursery or summer roosting for small crevice dwelling bat species.

- A minimum of 20 artificial nests, of either integrated brick design or external box design, suitable for a range of bird species, including starlings (42mm hole, starling specific), sparrows (32mm hole, terrace design), swifts (swift bricks or boxes) and/or house martins (house martin nesting cups).

The boxes shall be sited in suitable locations, with a clear flight path and where they will be unaffected by artificial lighting. The boxes shall thereafter be maintained for the lifetime of the development.

Reason: To ensure the provision of roosting and nesting opportunities, in accordance with MD12, CS17 and section 175 of the NPPF.

16. Prior to the development hereby permitted being first brought into use or occupied, the staff car park access onto Rosemary Lane shall be delivered, and constructed in full with visibility splays of 2.4m x 33m in accordance with details to be first submitted to and approved in writing by the Local Planning Authority.

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

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

17. The extra care units shall solely be occupied by those demonstrating a local connection to the Shropshire Council Area as defined in the Shropshire Affordable Housing Allocation Policy

Reason: To meet the identified extra care housing need in Shropshire

18. The extra care apartment building (Use Class C2) shall only be used for the purposes of providing extra care purposes. They shall not be used for any other purposes including any other purpose within Use Class C2 of the Town and Country Planning (Uses Classes) Order 1987 as amended.

Reason: In the interests of the protection of residential amenity

19. The extra care accommodation made up of 71 units shall be made available as Affordable Rent accommodation and shall not be let or occupied other than under a tenancy in accordance with the normal letting policy of a registered Provider.

Reason: To ensure compliance with the requirements of Shropshire Core Strategy Policy CS11 to ensure affordability in perpetuity.

20. The Travel Plan (TP) objectives shall be fully implemented in accordance with approved details for the lifetime of the development. The TP shall thereafter be submitted to Shropshire Council upon request but no less than 2 years from the date that the development is first brought into use/occupied and every 2 years thereafter.

Reason: To minimise the use of the private car and promote the use of sustainable modes of transport.

21. Construction and /or demolition shall only take place between the hours of 07:30 to 18:00 Monday to Friday and 08:00 to 13:00 Saturday. No construction activities shall occur on Sundays and public holidays.

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

22. The approved scheme for the noise attenuation as detailed in the REC, Noise Assessment Report dated Aug 2019, ref: AC106392-1r1, shall be completed prior to the occupation of the site and thereafter retained.

Reason: To protect residential amenity, health and wellbeing.

23. The occupation of the extra care units hereby approved shall be limited to persons who have reached the age of 55 and who are in need of extra care.

Reason: The extra care apartment block is not considered suitable for general needs housing due to amenity and car parking provision.

Informatives

1. All bat species found in the U.K. are protected under the Habitats Directive 1992, The Conservation of Habitats and Species Regulations 2017 and the Wildlife and Countryside Act 1981 (as amended).

It is a criminal offence to kill, injure, capture or disturb a bat; and to damage, destroy or obstruct access to a bat roost. There is an unlimited fine and/or up to six months imprisonment for such offences.

If any evidence of bats is discovered at any stage then development works must immediately halt and an appropriately qualified and experienced ecologist and Natural England (0300 060 3900) contacted for advice on how to proceed. The Local Planning Authority should also be informed.

Breathable roofing membranes should not be used as it produces extremes of humidity and bats can become entangled in the fibres. Traditional hessian reinforced bitumen felt should be chosen.

2. 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 and/or conversion, renovation and demolition work in buildings 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 if there are no active nests present should work be allowed to commence.

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

3. Widespread reptiles (adder, slow worm, common lizard and grass snake) are protected under the Wildlife and Countryside Act 1981 (as amended) from killing, injury and trade. Widespread amphibians (common toad, common frog, smooth newt and palmate newt) are protected from trade. The European hedgehog is a Species of Principal Importance under section 41 of the Natural Environment and Rural Communities Act 2006. Reasonable precautions should be taken during works to ensure that these species are not harmed.

The following procedures should be adopted to reduce the chance of killing or injuring small animals, including reptiles, amphibians and hedgehogs.

If piles of rubble, logs, bricks, other loose materials or other potential refuges are to be disturbed, this should be done by hand and carried out during the active season (March to October) when the weather is warm.

Areas of long and overgrown vegetation should be removed in stages. Vegetation should first be strimmed to a height of approximately 15cm and then left for 24 hours to allow any animals to move away from the area. Arisings should then be removed from the site or placed in habitat piles in suitable locations around the site. The vegetation can then be strimmed down to a height of 5cm and then cut down further or removed as required. Vegetation removal should be done in one direction, towards remaining vegetated areas (hedgerows etc.) to avoid trapping wildlife.

The grassland should be kept short prior to and during construction to avoid creating attractive habitats for wildlife.

All building materials, rubble, bricks and soil must be stored off the ground, e.g. on pallets, in skips or in other suitable containers, to prevent their use as refuges by wildlife.

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

Any common reptiles or amphibians discovered should be allowed to naturally disperse. Advice should be sought from an appropriately qualified and experienced ecologist if large numbers of common reptiles or amphibians are present.

If a great crested newt is discovered at any stage then all work must immediately halt and an appropriately qualified and experienced ecologist and Natural England (0300 060 3900) should be contacted for advice. The Local Planning Authority should also be informed.

If a hibernating hedgehog is found on the site, it should be covered over with a cardboard box and advice sought from an appropriately qualified and experienced ecologist or the British Hedgehog Preservation Society (01584 890 801).

Hedgerows are more valuable to wildlife than fencing. Where fences are to be used, these should contain gaps at their bases (e.g. hedgehog-friendly gravel boards) to allow wildlife to move freely.

4 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.

1. This planning permission does not authorise the applicant to:
construct any means of access over the publicly maintained highway (footway/verge) or
 - carry out any works within the publicly maintained highway, or
 - authorise the laying of private apparatus within the confines of the public highway including any a new utility connection, or
 - undertaking the disturbance of ground or structures supporting or abutting the publicly maintained highway, or
 - undertake the placing of a skip, scaffolding, hording or fencing on or immediately adjacent to the highway, or
 - use the highway for any purpose associated with the construction of this development, such as unloading delivery vehicles, parking of plant or machinery or the storage of materials, etc.

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

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

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

It should also be noted that the Developer may be directed by Shropshire Council to carry out works, within the public highway, overnight or at weekends (outside of the scope of the planning consent) to ensure through traffic disruption and health & safety requirements are managed appropriately

6 If your proposed project requires Building Regulations Approval or you are unsure whether it does please contact us on 01743 258710, email buildingcontrol@shropshire.gov.uk or visit our website www.buildshropshire.co.uk for preapplication advice and a competitive fee.

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-application>

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<u>Committee and Date</u>
Northern Planning Committee
27 th May 2020

<u>Item</u>
9
Public

Development Management Report

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

SCHEDULE OF APPEALS AS AT COMMITTEE: 27th May 2020

Appeals Lodged

LPA reference	19/00035/FUL
Appeal against	Appeal Against Refusal
Committee or Del. Decision	Delegated Decision
Appellant	Mr & Mrs PN and WT Woollaston
Proposal	Erection of detached dwelling and associated infrastructure
Location	Proposed Dwelling To The West Of 30 Havelock Road Shrewsbury
Date of appeal	14.01.2020
Appeal method	Hearing
Date site visit	
Date of appeal decision	
Costs awarded	
Appeal decision	

Appeals Determined

LPA reference	19/03205/FUL
Appeal against	Refusal
Committee or Del. Decision	Delegated
Appellant	D And D Culligan
Proposal	Siting of 10 static caravans with hardstanding; an office building; internal road layout; play area; amenity area and modified access (Amended Description)
Location	Links Holiday Lodges The Links Hinstock
Date of appeal	27.01.2020
Appeal method	Written reps
Date site visit	23/03/2020
Date of appeal decision	01/05/2020
Costs awarded	No
Appeal decision	Dismissed

LPA reference	18/04965/FUL
Appeal against	Appeal Against Refusal
Committee or Del. Decision	Committee Decision
Appellant	Mr Ed Aldridge
Proposal	Erection of a new crematorium with associated access, car parking and landscaping.
Location	Proposed Crematorium North Of Nesscliffe Shrewsbury
Date of appeal	05.09.2019
Appeal method	Hearing
Date site visit	11.03.20
Date of appeal decision	21.04.20
Costs awarded	COSTS REFUSED
Appeal decision	DISMISSED



Appeal Decision

Site visit made on 23 March 2020

by **Ben Plenty BSc (Hons) DipTP MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 1 May 2020

Appeal Ref: APP/L3245/W/19/3243795

The Links Holiday Lodges, Land adjacent to Links Green, Hinstock, Market Drayton, Shropshire TF9 2NH

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
 - The appeal is made by D & D Culligan against the decision of Shropshire Council.
 - The application Ref 19/03205/FUL, dated 9 July 2019, was refused by notice dated 8 November 2019.
 - The development proposed is for 11 Static holiday caravans replacing 5 log cabins, 2 in place to be demolished and site layout, wardens office, play area, drainage, access and amenity area.
-

Decision

1. The appeal is dismissed.

Procedural matters

2. The Council's decision notice refers to policy MD7am of the Shropshire Council Site Allocations and Management Development Plan 2015 (SAMDev Plan). However, instead the Council identifies that policy MD7a is a relevant policy to the case. As both main parties have provided commentary on this policy, I shall take this into account in the appeal.
3. The proposal was amended during the application process by reducing the proposed number of caravans from 11 to 10¹ and increasing the amenity area. I have therefore taken this amended plan into account, which does not materially change the substance of the proposal and would not prejudice any party.

Application for costs

4. An application for costs was made by D & D Culligan against Shropshire Council. This application is the subject of a separate Decision.

Main Issue

5. The main issue is the effect of the proposed development on the character and appearance of the area.

¹ Amended Plan MM-7-19 B (13/08/19)

Reasons

6. The appeal site is a triangular parcel of land adjacent to the junction of two country lanes. There are small clusters of dwellings near to the site. The site is however within the open countryside and away from the nearby village. It is occupied by two log cabins. These were subject to planning approval² for the installation of five cabins in 2012. The application was then subject to a variation³ to allow for a phased installation of the units (plan 'Walker/02 Rev C'). The site is bound on two sides by trees and hedging with some gaps. This affords some views through the site from the adjacent highways and does not offer a continuous dense screen.
7. A boundary bisects the site with a post and rail fence and a small hedge. Views of the countryside beyond this fence line are relatively open. Accordingly, the site is partially open to views from the public realm. The installed log cabins are discretely placed alongside the eastern boundary and maintain the open and rural character of the site. Consequently, the site makes a positive contribution to the character and appearance of the surrounding open countryside.
8. Policy MD11.6 of the SAMDev Plan identifies that sites for new and extended touring caravans and camping sites should have regard to its cumulative effect on natural assets and the over intensification of a site. Furthermore, Policy MD11.7, identifies that static caravans, chalets and log cabins can have a greater impact on the countryside than sites for touring caravans and camp sites. As such, the policy explains that as well as taking into account policy MD11.6, proposals for static caravans should also be screened by landscaping and designed to a high quality.
9. The proposed static holiday caravans would be arranged in a fan configuration from the entrance to the site. This would place some caravans adjacent to the southern boundary of the site and close to the highway. The extant consent would provide additional log cabins. These would be widely spaced and enable clear visual gaps through the site, largely retaining its rural character. Conversely, the proposed caravans would be set close together. This would prevent most views through the site. Accordingly, due to the number and spacing of proposed caravans the visual effect would create a substantial combined mass. Subsequently, this would have a significant impact on the open character of the site and erode its rural character.
10. The site is close to small clusters of built form and the nearby village. Nevertheless, the site is a separate and distinct plot away from other development. This would emphasise the urbanising effect of the proposal. The layout plan provides an indication of plant cover on the perimeter of the site. However, this is not supported by a landscape assessment to consider the visual impact of the proposal on the wider area. The proposal would result in a relatively intense cluster of static caravans that would result in visual harm to the local character. Therefore, although the proposal would expand an existing facility and make more efficient use of the site, the intensity of development would harm the rural character of the area.
11. Accordingly, the proposal would be contrary to policies CS6 and CS16 of the Shropshire Local Development Framework: Core Strategy 2011 (CS). These

² Planning Application Reference: 11/03893/FUL

³ Planning Application Reference: 12/01454/VAR

seek amongst other things for development to take into account local context and ensure that visitor accommodation is of an appropriate scale for its surroundings. Furthermore, the proposal would fail to accord with policies MD2 and MD11 of the SAMDev Plan. These require development to contribute to locally distinctive or valued character and for tourism sites in the countryside to complement the character and qualities of the site's immediate surroundings. These policies are in general accordance with the National Planning Policy Framework (The Framework) which supports rural tourism that respects the character of the countryside.

12. However, policy MD7a of the SAMDev Plan, refers to the Council's spatial housing strategy and its approach to housing in the countryside. It lists exclusions for when such housing would be appropriate in these circumstances. However, it is silent in regard to the suitable location of caravan sites. This therefore is not relevant to the proposal.

Other matters

13. The proposal would increase tourism in the area and would therefore have a positive effect on the local rural economy. The proposal would also provide new employment opportunities in the form of cleaners and gardeners. The Council's officer report identifies that Hinstock has a range of services and facilities. It is also noted that this is within walking distance of the site. These benefits are therefore of moderate weight in favour of the proposal. However, the benefit to the local economy would be likely to be marginal and would not therefore outweigh the conflict identified with the development plan.
14. The appellants identify that the proposal would meet the good practice standards within the legislation associated with Holiday Caravan Sites. The evidence indicates that the spacing of the caravans would not be considered as overcrowding in so far as advanced by this legislation. However, satisfying this requirement has only an indirect bearing on the visual effect of the proposal on the character and appearance of the area.
15. The proposal has not raised objection from the Council in regard to impact on neighbour's living conditions, waste management, impact on local wildlife, horses, flooding and highway matters. However, an absence of harm in these respects can only be considered as neutral factors in the planning balance. Furthermore, although the proposal would include an area for recreation and dog walking, this gain for users of the facility would not offset the impact of the proposed development to the rural character of the area.
16. The appellants assert that the proposal is required to provide a viable holiday caravan site. However, they have not illustrated why the consented scheme for five is not viable or why a further five are essential for a viable business. As such, the viability and reliance on a greater level of development in this respect can only be ascribed limited weight in the planning balance.

Conclusion

17. For the above reasons the appeal is dismissed.

Ben Plenty

INSPECTOR

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Costs Decision

Site visit made on 23 March 2020

by **Ben Plenty BSc (Hons) DipTP MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 1 May 2020

Costs application in relation to Appeal Ref: APP/L3245/W/19/3243795 The Links Holiday Lodges, The Links, Hinstock, Market Drayton, Shropshire TF9 2NH

- The application is made under the Town and Country Planning Act 1990, sections 78, 322 and Schedule 6, and the Local Government Act 1972, section 250(5).
 - The application is made by D & D Culligan for a full award of costs against Shropshire Council.
 - The appeal was against the refusal of 11 Static holiday caravans replacing 5 log cabins, 2 in place to be demolished and site layout, wardens office, play area, drainage, access and amenity area.
-

Decision

1. The application for an award of costs is refused.

Reasons

2. The Planning Practice Guidance (the PPG) advises that costs may be awarded against a party who has behaved unreasonably, and thereby caused the party applying for costs to incur unnecessary or wasted expense in the appeal process. The PPG is clear that a Council could be vulnerable to an award of costs against it if it prevents or delays development which should clearly be permitted, having regard to its accordance with the development plan, national policy and any other material considerations.
3. The applicant alleges that the Council failed to determine the planning application in accordance with material planning evidence as highlighted by the appellants' Statement of Case. Furthermore, it is alleged that the Council failed to accept the first consultation response from the highway authority despite it having raised no objection. It is also alleged that the decision of the Council to make a delegated decision, rather than take the item to planning committee, was in defiance of its standing orders.

Failure to consider material planning evidence

4. The costs application does not specify the material consideration that was allegedly not taken into account. However, the appellants' Statement of Case and Planning Statement suggest that the proposal meets the legislative requirements for caravan sites. This therefore asserts that the Council should have taken this legislative license requirements associated with the spacing of caravans into account. However, I have found in my main decision, that complying with such legislation can only have a limited and indirect bearing on the effect of the proposal on the surrounding area. Consequently, the arrangement of caravans may meet the correct spacing requirements of the

legislation, and by association not be considered to be cramped. Nevertheless, I have found in my main decision that the result of the layout would be to create an intensive form of development. This would in any event be harmful to the rural character and appearance of the area.

Requiring further highway evidence

5. The planning application was supported by a Transport Statement¹. This found that the proposal would have a negligible impact on the local highway network.
6. A response was received from the Highway Authority in August 2019, this required further information in regard to the visibility splays, sightlines from 'The Yelves' and construction access details. The appellant provided further information to the Council and accordingly a second response from the Highway Authority reported no objection in September 2019. This second response recommended that any approval included a condition that required appropriate visibility splays to be provided prior to the commencement of development. I therefore cannot concur with the applicant that the first highway response raised no concerns.
7. Therefore, it seems that the required information was necessary, and this removed the concerns of the Highway Authority. It was willingly provided by the applicant and it resolved this concern. As such, the applicant has failed to illustrate unreasonable behaviour on the part of the Council.

Delegated authority

8. The applicants have not provided a copy of the Council's standing order pertaining to delegated powers. Furthermore, the applicant has not explained how the Council is alleged to be in breach of its standing order or how this resulted in unreasonable behaviour or wasted expense to the applicant.

Conclusion

9. I therefore find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in Planning Practice Guidance, has not been demonstrated.

Ben Plenty

INSPECTOR

¹ Transport Statement Report, Modal Highways Consultants June 2019



Appeal Decision

Hearing Held on 11 March 2020

Site visit made on 11 March 2020

by Thomas Hatfield BA (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 21st April 2020

Appeal Ref: APP/L3245/W/19/3236638

Land off Holyhead Road (Former A5), Nesscliffe, Oswestry, SY4 1AY

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
 - The appeal is made by Mr Ed Aldridge of Westerleigh Group Ltd against the decision of Shropshire Council.
 - The application Ref 18/04965/FUL, dated 24 October 2018, was refused by notice dated 8 July 2019.
 - The development proposed is described as "*erection of a new crematorium for Oswestry with associated access, car parking and landscaping*".
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Decision

1. The appeal is dismissed.

Application for Costs

2. At the Hearing an application for costs was made by Mr Ed Aldridge of Westerleigh Group Ltd against Shropshire Council. This application is the subject of a separate Decision.

Main Issues

3. The main issues are:
 - (a) Whether the development would result in an acceptable environment for mourners and visitors to the crematorium in respect of noise, disturbance, and odour, and;
 - (b) The effect of the development on the character and appearance of the area, including on the setting of Nesscliffe Hill Camp.

Reasons

Noise, disturbance, and odour

4. The appeal site is located a short distance to the north and east of the Nesscliffe Training Area, which is an extensive area of land used for military training purposes. RAF Shawbury is also located approximately 20 kilometres to the east, which provides helicopter training to armed forces personnel. In this regard, the appeal site is within a relatively narrow corridor that is used by helicopters travelling between RAF Shawbury and the Nesscliffe Training Area. At the hearing, it was stated that helicopters leaving RAF Shawbury typically aim for the Nesscliffe Hills before dropping to a low level in the vicinity of the

appeal site. In this location, it was stated that helicopters (including larger Chinooks) would typically fly at between 30 and 150 metres above the ground, 2-3 times an hour, as part of routine training operations.

5. The appellant has questioned whether the site is directly overflowed by military training helicopters and stated at the hearing that they had never witnessed helicopters in the vicinity of the appeal site. However, the Ministry of Defence (MoD) has consistently stated, including in its initial representations at application stage, that the bridge across the A5 (immediately to the north west of the appeal site) is used by helicopter pilots as a waypoint before proceeding to the Nesscliffe Training Area. This was reiterated at the hearing, and it is unclear why the MoD would persist in its objections if this were not the case. I further note that a number of local residents stated that they regularly see low flying helicopters in this location.
6. A series of noise impact assessments and technical notes have been submitted in support of the appeal proposal. These identify road traffic noise associated with the A5 as the dominant source of noise across the site, whereas helicopter noise in the vicinity was identified as not being significant. However, the MoD states that helicopter activity was significantly below normal levels during those survey periods¹. In this regard, it is asserted that only 16 flights took place during the initial 2 week survey period, and that flights during the second period were limited by poor weather. It is also unclear how close any helicopter flights recorded in those surveys were to the site, or at what height they were flying. Given the relatively small number of flights that took place, these surveys may not be representative of helicopter noise that would ordinarily be experienced at the site.
7. On the second day of the hearing, a demonstration was arranged for a training helicopter to fly near to and directly over the appeal site at 30 and 150 metres above ground level. During each of these flyovers, the helicopter was clearly audible above road traffic noise from the A5, and it had a loud pulsating character. This was most pronounced when the helicopter directly overflowed part of the site and in these cases the noise generated was dominant and intrusive. However, even on the flyovers that took place on either side of the appeal site, the character and level of the noise was highly distracting. Moreover, given the speed at which the helicopters were travelling, this noise emerged relatively quickly and intensely. Coupled with the visual impact of a helicopter travelling at low level and high speed, this had a startling effect that would be highly disconcerting if unexpected. This effect would be even more pronounced for a larger Chinook helicopter, which are also used for training purposes in this area.
8. Whilst it would be possible to insulate the crematorium building to prevent any significant disruption to services, mourners would be likely to gather outside both before and after a funeral to converse and offer condolences. At these times, a low flying helicopter in the vicinity of the appeal site would be highly distracting and likely to result in annoyance and distress to those grieving the loss of a friend or relative. In addition to the crematorium building, a large memorial garden is also proposed. This would be a place of contemplation and reflection, where personal memorials such as benches, trees, or miniature gravestones could be placed. Visitors to this area could reasonably expect a

¹ Between 26-31 July 2018 and 2-10 December 2019

- degree of peace and tranquillity, rather than being subjected to this level of disturbance.
9. At the hearing, representatives from the MoD, RAF, and British Army described the measures they have undertaken to minimise noise and disruption in the area. This includes participation in a RAF Helicopter Noise Liaison Group, and the careful routing of flights between RAF Shawbury and the Nesscliffe Training Area to avoid villages and other noise sensitive locations. As public bodies, these organisations are particularly sensitive to complaints regarding their operations. Given the potential for low flying helicopters to cause annoyance and distress to mourners and visitors to the crematorium, this would be likely to generate adverse publicity and a significant number of complaints. In turn, this could result in significant pressure to re-route helicopter flights away from the appeal site.
 10. At the hearing, it was stated that this would not be straightforward and may have significant cost implications in terms of fuel usage and the ability to fulfil contractual obligations. It was also asserted that alterations to existing flight patterns would lead to a funnelling of activity elsewhere that could increase the risk of mid-air collision between helicopter traffic entering and leaving the Nesscliffe Training Area. Whilst only limited details have been provided of the routes that helicopters currently use, or where any funnelling would take place, it was stated that there would be security implications for placing this information in the public domain. I have no reason to doubt this, and as public bodies, I attach significant weight to the comments made by the MoD and the RAF regarding the effect of the proposal on their operations. I further note that Paragraph 95 of the National Planning Policy Framework ('the Framework') states that planning decisions should ensure that operational defence sites are not affected adversely by the impact of other development proposed in the area.
 11. It is asserted in the Council's Development Management Report, and in the appellant's Statement of Case, that the MoD did not formally object to the original planning application. However, at the hearing, representatives from both the MoD and RAF stated that their comments were intended as a formal objection, even if this was not explicitly stated. From the tone and content of those comments it is clear that there were substantial concerns about the proposal, and I have no reason to doubt their stated intentions in this regard.
 12. The appellant has provided a list of complaints received in Low Flying Areas in 2018. This shows that Low Flying Area 9 (which contains the appeal site) had the second lowest number of complaints, at 71 flying hours per complaint. However, this may simply reflect the efforts which are made locally to minimise disruption associated with military training helicopters. Moreover, Low Flying Area 9 encompasses 1,361 square miles, and so that data may not reflect the specific circumstances of this case.
 13. The appeal site is also positioned next to the A5, which is a busy dual carriageway that generates a relatively consistent level of traffic noise. In this regard, the submitted noise reports indicate that the external noise levels within the memorial gardens would range between 53-60 dB, largely as a result of noise from the A5. This could be reduced by 2 dB through the installation of a 2.4 metre high acoustic barrier along the south western boundary of the site. It is asserted that this would result in only a modest exceedance of the WHO

guidelines for outdoor living areas, which specifies a range of between 50-55 dB. However, these guidelines state that a level of 50 dB would result in "moderate annoyance, daytime and evening" whereas at 55 dB this would result in "serious annoyance, daytime and evening". The proposed level of 58 dB would exceed this upper threshold. During my site visit, I observed the noise levels associated with the road, albeit without the proposed mitigation in place. Over time, this noise had an oppressive quality at odds with the tranquillity that visitors to a memorial garden could reasonably expect. In my view, this noise would further contribute to a poor environment for mourners and visitors to the site. Whilst it was asserted that housing developments have been approved by the Council nearby without an acoustic fence being required, the full details of those cases are not before me. In any case, I have come to my own view on this matter rather than relying on the approach the Council may have taken elsewhere.

14. The proposed crematorium building would also be positioned approximately 130 metres² to the north-east of a large poultry rearing site on the opposite side of the A5. In this regard, an Odour Assessment³ has been submitted that surveyed odour from this source. These surveys recorded odours downwind from the poultry sheds, including within the appeal site, during worst case conditions. However, no "offensive" odours were observed. Moreover, the use of chicken (or other) manure as a fertiliser on neighbouring fields is not unusual in a countryside location. Whilst mourners and visitors to the site may experience occasional odour from these sources, this matter would not justify withholding permission in my view.
15. Separately, the Nesscliffe Training Area is also used for 2-3 weeks a year for training exercises in relation to explosive ordnance disposal. These exercises involve members of the armed forces, the police, the fire and rescue service, and other agencies. During these exercises, the use of explosives is frequent, the volume of which is described as being akin to a large firework display. In addition, the use of sirens from military and police vehicles, as well as fire engines, would be frequent and ongoing. These exercises would take place approximately 1.5 km - 2 km away from the appeal site and on the other side of the A5. They would also be occasional in nature, and it was stated at the hearing that advanced warning is usually provided to local residents and businesses given the level of noise that is generated. In this regard, the appellant stated that it would be possible to schedule their maintenance so that services did not take place during these times. In these circumstances, I do not consider that this matter would justify withholding permission. However, that does not alter my other concerns regarding helicopter disturbance, as set out above. Separately, whilst the Nesscliffe Training Area is also used to dispose of recovered legacy munitions, this occurs infrequently, and controlled explosions are usually undertaken some distance away from the appeal site.
16. My attention has been drawn to a number of other crematoria that operate in close proximity to major roads and other sources of disturbance. However, the full details of those cases including the reasoning underpinning their approval are not before me, and I am therefore unable to assess any direct comparability to the current appeal proposal. In this regard, whilst I note that Llanelli Crematorium is approximately 300 metres from a Welsh Air Ambulance

² According to the Council

³ REC (May 2019)

base it is unclear that it is directly overflowed by helicopters at a comparable height and speed, and if so, how frequently this occurs.

17. For the above reasons, I conclude that the development would result in an unacceptable environment for mourners and visitors to the crematorium in respect of noise and disturbance. It would therefore be contrary to the relevant sections of Policy CS6 of the Shropshire Core Strategy (2011) which seeks, amongst other things, to safeguard local amenity. It would also be at odds with the Framework, which requires that development provides a high standard of amenity for existing and future users.

Character and appearance

18. The appeal site is visible from a number of vantage points in the surrounding area, including from nearby roads and footpaths, and in longer views from the top of Nesscliffe Hill. From these positions, the crematorium building and car parking areas would be clearly visible and the agricultural character of the site would be significantly altered. A submitted Landscape and Visual Impact Assessment⁴ (LVIA) identifies that there would be both 'moderate adverse' and 'substantial adverse' visual effects initially, although this would reduce to 'minor adverse' in all instances by year 15. In this regard, the LVIA illustrates that over time the proposed building and parking areas could be largely screened from view by an appropriate landscaping scheme. Significant areas of the site would also remain open.
19. Nesscliffe Hill Camp is an Iron Age hillfort and Scheduled Monument, located around 700 m to the south east of the appeal site. It occupies a prominent position on the northern part of the summit of Nesscliffe Hill. Although the monument is masked by dense tree cover, its hilltop location is widely visible across the surrounding landscape. The development would introduce a new and relatively large feature into the open agricultural setting of the hillfort. This open farming landscape adds to its significance as the people who built the hillfort and lived in the area are known also to have extensively farmed the same landscape. The presence of this fertile plain also helps to explain why the hillfort was sited at this location. By altering the character and reducing the openness of its setting, the development would result in some harm to the setting of Nesscliffe Hill Camp. This harm would be 'less than substantial' in the context of Paragraphs 195-196 of the Framework and would diminish over time. Set against this, the development would provide significant public benefits, as set out below. In my view these benefits would outweigh the harm that would arise solely to the setting of the Scheduled Ancient Monument.
20. The development would therefore accord with the relevant sections of Policies CS6 and CS17 of the Shropshire Core Strategy (2011), Policies MD2, MD12 and MD13 of the Shropshire Site Allocations and Management of Development Plan (2015), and guidance in the Framework relating to designated heritage assets.

Other Considerations

21. It is not disputed that the provision of adequate cremation facilities is an essential societal need. In this regard, bereaved relatives organising a funeral should be able to access suitable facilities within a reasonable distance, without

⁴ The Richards Partnership (October 2018)

significant delay. The adequate provision of cremation facilities is therefore clearly a weighty planning consideration.

22. The appellant has prepared a need assessment⁵ in support of the proposal, which concluded that there is a quantitative and qualitative need for a new crematorium to serve Oswestry and the surrounding communities. In addition, the Council commissioned its own Crematorium Need Assessment⁶ in relation to the proposal. This also concluded that there is a compelling quantitative and qualitative need for a new Nesscliffe Crematorium. I see no reason to dispute the findings of these assessments.
23. The siting of new crematoria is subject to the requirements of the Cremation Act 1902. Section 5 of Chapter 8 of the Act states that; "*No crematorium shall be constructed nearer to any dwelling house than two hundred yards [182 metres] except with the consent in writing, of the owner, lessee and occupier of such house, nor within 50 yards of any public highway*". In practice, this restriction is likely to mean that any proposal for a new crematorium will require a countryside location away from existing settlements.
24. The appeal site is not identified as an allocation for a new crematorium in any adopted Development Plan Document, or in the emerging Local Plan Partial Review. However, nor are any other sites identified for this purpose.
25. My attention has been drawn to 2 recent appeal decisions⁷ where Inspectors found that 'very special circumstances' existed to justify allowing new crematoria in the Green Belt. However, neither of those cases appear to raise the same planning issues that apply here in relation to noise and disturbance.

Overall Balance and Conclusion

26. As set out above, the proposal would result in an unacceptable environment for mourners and visitors to the crematorium and would be likely to adversely affect nearby operational defence sites. It would be contrary to the development plan and the Framework in these respects. It would also result in less than substantial harm to the setting of a Scheduled Monument.
27. Set against this is the clear quantitative and qualitative need for a new crematorium, and the requirement for a countryside location. The development would also generate economic benefits through the creation of employment and the purchasing of materials, and it would deliver biodiversity enhancements. Together, these considerations carry significant weight in favour of the proposal.
28. Overall, however, I consider that the benefits of the development do not outweigh the harm I have identified. In the circumstances of this appeal, the material considerations considered above do not justify making a decision other than in accordance with the development plan.
29. For the reasons given above I conclude that the appeal should be dismissed.

Thomas Hatfield

INSPECTOR

⁵ Westerleigh Group, October 2018

⁶ Peter Mitchell Associates (June 2019)

⁷ APP/P1805/W/18/3211026 & APP/P3040/W/19/3229908

APPEARANCES

FOR THE APPELLANT:

E Aldridge	Appellant
M Hubbard	Planning Consultant
C Kearney	Environmental Consultant
M Parker	Environmental Consultant
P Richards	Landscape Architect

FOR THE LOCAL PLANNING AUTHORITY:

T Rogers	Shropshire Council
K Hall	Shropshire Council

INTERESTED PERSONS:

Cllr E Potter	Ward Councillor
P Hinton	Defence Infrastructure Organisation
Wing Cdr M Jordan	Royal Air Force
Maj R Slayney	British Army
P Brooks	Great Ness and Little Ness Parish Council
R Turner	Great Ness and Little Ness Parish Council
S Ruffler	
Z Robins	
M Robins	
J Burgoyne	
J Brisbane	

DOCUMENTS SUBMITTED AT THE HEARING

- 1 Site plan and planning history relating to a nearby residential development site on the edge of Nesscliffe village.

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