

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

Date: Monday, 2 November 2020

**Committee: Northern Planning Committee**

**Date:** Tuesday, 10 November 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:** [www.shropshire.gov.uk/NorthernPlanningCommittee10Nov2020](http://www.shropshire.gov.uk/NorthernPlanningCommittee10Nov2020)

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<https://www.shropshire.gov.uk/planning/applications/planning-committees/>

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:

**Shelley Davies** Committee Officer

Tel: 01743 257718

Email: [shelley.davies@shropshire.gov.uk](mailto:shelley.davies@shropshire.gov.uk)

# AGENDA

## 1 Apologies for Absence

To receive apologies for absence.

## 2 Minutes

To confirm the Minutes of the meeting of the North Planning Committee held on 13<sup>th</sup> October 2020 – To Follow.

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, 6<sup>th</sup> November 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 Broughall Fields Farm, Ash Road, Whitchurch (20/01783/VAR) (Pages 1 - 26)

Variation of Condition No.6 (principal uses of the site) pursuant to 16/04784/VAR to allow for digestive processing of agricultural and dairy waste and non-waste feedstocks

## 6 Proposed Dwelling at 28 Grove Crescent, Woore (20/02976/FUL) (Pages 27 - 46)

Erection of one self build 5 bedroom detached dwelling house, with a link attached garage, installation of ground mounted solar panel array; and the formation of vehicular access; associated landscaping works

## 7 Land Adjacent to Golf House Lane, Prees Heath (19/02203/FUL) (Pages 47 - 96)

Erection of 48 dwelling houses (23 open market and 25 affordable) including new vehicular access, public open space and associated infrastructure (amended description)

## 8 Appeals and Appeal Decisions (Pages 97 - 124)

## 9 Date of the Next Meeting

To note that the next meeting of the North Planning Committee will be held at 2.00 pm on Tuesday, 8<sup>th</sup> December 2020.

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Committee and Date  
Northern Planning Committee  
10<sup>th</sup> November 2020

Item  
**5**  
Public

## Development Management Report

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

### Summary of Application

<b><u>Application Number:</u></b> 20/01783/VAR	<b><u>Parish:</u></b>	Whitchurch Urban
<b><u>Proposal:</u></b> Variation of Condition No.6 (principal uses of the site) pursuant to 16/04784/VAR to allow for digestive processing of agricultural and dairy waste and non-waste feedstocks		
<b><u>Site Address:</u></b> Broughall Fields Farm, Ash Road, Whitchurch, TF8 7BX		
<b><u>Applicant:</u></b> Whitchurch Biogas Ltd		
<b><u>Case Officer:</u></b> Graham French	<b><u>email:</u></b> <a href="mailto:planningdmc@shropshire.gov.uk">planningdmc@shropshire.gov.uk</a>	

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



**Figure 1 – Site Location and layout**

## REPORT

### 1.0 THE PROPOSAL

1.1 Planning permission for construction of an Anaerobic Digester (AD) plant at Broughall Fields Farm was granted to the applicant, Whitchurch Biogas Ltd on 19<sup>th</sup> December 2014 (14/01398/MAW). The site has been fully operational since 2016. Further applications have subsequently been submitted to vary the layout, feedstock throughput, operation, and management of the AD site as follows:

- 15/02293/AMP | A non-material amendment to previously granted 14/01398/MAW to amend the Site layout: This amendment was granted on 1st June 2015.
- 16/04784/VAR | Variation of conditions 2, 3 and 8 attached to 14/01398/MAW dated 19/12/2014 (for installation of an anaerobic digestion plant) to alter the site layout and increase the quantity of feedstock accepted at the site. This variation was granted on 30th March 2017.
- 18/00324/MAW | Installation of additional infrastructure at an operational Anaerobic Digester (AD) site, and the installation of two digestate lagoons. Planning permission was granted on 30th July 2018.

1.2 At the time of the variation granted in March 2017 (LPA ref: 16/04784/VAR) Whitchurch Biogas Ltd did not require an Environment Agency Environmental Permit as no waste materials were being introduced to the facility. However, the applicant is now proposing to introduce agricultural wastes as part of the feedstock mix.

1.3 Condition 6 of the decision notice controls the permitted AD feedstocks and prohibits the introduction of agricultural wastes. The condition is worded as follows:

“The principal uses of the Site shall be restricted to:

- i. The anaerobic digestion process and the associated receipt, handling and storage of agricultural crop products and whey permeate;
- ii. Generation of electricity and heat and other ancillary operations associated with the above activities.”

1.4 On 13<sup>th</sup> January 2020 an Environmental Permit was granted for the site (EA ref: EPR/JP3431RD) and this allows the AD facility to accept waste (chicken manure) as well as existing non-waste feedstocks (silage and energy crops). The current application seeks to vary the wording of condition 6 to allow the addition of chicken manure and other agricultural and dairy wastes as feedstocks. This would bring the planning and permitting regimes into alignment. The applicant has suggested the following revised wording of the condition:

“The principal uses of the Site shall be restricted to:

- i. The anaerobic digestion process and the associated receipt, handling and storage of agricultural and dairy waste and non-waste feedstocks;
- ii. Generation of electricity and heat and other ancillary operations associated with the above activities.”

1.5 There would be no increase in traffic movements and the application does not involve any other changes to the previously approved scheme of working at the AD facility.

## 2.0 SITE LOCATION / DESCRIPTION

2.1 The application site (4.06ha) comprises the existing AD site (2.06ha) and a 2ha extension onto adjoining agricultural land to accommodate the proposed digestate lagoons). The AD site is located to the east of the A525 Whitchurch By-Pass and the applicant's warehouses on the Waymills Industrial Estate. The site sits just outside of the Development Boundary of Whitchurch as defined in the Place Plan. The surrounding landscape comprises a mixture of industrial and commercial development and intensively managed agricultural land. The nearest residential property is located 130m to the north east. The site is not affected by any statutory rural or historic designations. Brown Moss, a RAMSAR site, SSSI and Local Nature Reserve, is located approximately 900 metres to the south.

2.2 Grocontinental is one of the largest international storage and distribution companies in the UK. The 30 acre unit at Whitchurch oversees 143,000 pallet spaces of multi-temperature storage and 5,000 daily pallet movements, controlled by systems technology. The company is a major employer and performs a vital role in supporting the wider food industry in Shropshire.

## 3. REASON FOR COMMITTEE DETERMINATION OF APPLICATION

3.1 The proposals relate to major development raising complex issues and the Town Council has objected. The application is therefore referred to committee under the Council's scheme of delegation.

## 4. CONSULTEE RESPONSES

4.1i. Whitchurch Town Council – Objection on the following grounds:

i. The Berry's Report states: "3.2 Amenity Impact - The Environmental Permit will ensure that no unacceptable adverse odour impacts will result from accepting of poultry manure at the site. The EA have granted a permit for the site meaning it is their belief poultry manure can be accepted at the site without an unacceptable odour impact beyond the site. The EA will regulate the site and ensure odour emissions are kept to acceptable levels. Condition 3.3 of the issued Environmental Permit states: "Emissions from the activities shall be free from odour at levels likely to cause pollution outside the site, as perceived by an authorised officer of the Environment Agency, unless the operator has used appropriate measures, including, but not limited to, those 6 specified in any approved odour management plan, to prevent or where that is not practicable to minimise the odour."

- WTC are dissatisfied with the continued variations of applications submitted from this business.
- WTC are dissatisfied with the ambiguous terminology used in the Berry's report.
- WTC object to this application on the basis that control of odour is not specific.
- WTC object to this application as not enough information is provided about the number of vehicles with chicken manure will be arriving on site, where these vehicles are travelling from and what percentage of anaerobic feedstock will be

chicken manure.

- WTC, whilst objecting to this proposed variation and application are not opposed to the right business on the right site with the right activities, with appropriate measures to control activities.

4.2i. Environment Agency: We responded to the application to which this variation relates on the 9 March 2018 (copy attached). In that response we confirmed that, at that time, we did not regulate the site but that if new waste streams were proposed an Environmental Permit may be required to operate the facility. We note that the applicant is now seeking to vary Condition 6 (Principal Uses of the Site) to accommodate digestive processing of agricultural and dairy waste and non-waste feedstocks. As such this means it would need to be regulated by the Environment Agency.

- ii. Advantage Biogas Limited were granted a bespoke Environmental Permit on 13/01/20 for operations. This Permit lists waste types that are acceptable for treatment at this facility and this includes that which chicken litter would fall under (‘animal faeces, urine and manure’). I have attached a copy of the Environmental Permit for information. Please note that the importation of waste has not yet started on site and there are pre operational conditions that need to be completed prior to waste being accepted. Variation of this condition, and the stipulations of the Permit, preclude the use of food waste at the facility. Should the operator seek to further amend their operations a variation will be required under both regulatory regimes.

4.3 SC Regulatory Services: No comment.

4.4 SC Conservation (Historic Environment): No comments in conservation terms.

4.5 SC Archaeology: No comment.

4.6 SC Trees: No comment.

4.7 SC Drainage advisor: No comment from a drainage and flood risk perspective.

4.8 SC Rights Of Way: No comments.

4.9 SC Highway advisor: No Objection – subject to the development hereby approved being constructed in accordance with the approved details. Further detail has been received from Iona Capital which includes vehicular movement information as a result of the variation, which is considered acceptable from a transport and highways perspective

4.10 Councillor Mr Gerald Dakin (Whitchurch South) – has been informed of the proposals.

#### PUBLIC REPRESENTATIONS

4.11 The application has been advertised in the press and by site notice and the nearest properties have been individually notified. Objections have been received from 36 individuals and one neutral representation has been received. The grounds of objection are summarised below:

- i. Incremental development in the countryside. Since the original planning consent was granted the AD complex has grown to 2 digesters, 4 engines and 2 clamps with 2 further



clamps at the adjoining farm that feed into it. The disposal of waste products is now a very lucrative business and the public should be aware of the above potential for further noxious feedstocks to be added in the future. We were assured that there was to be only one AD and we get two. We were assured that there was to be only two generators and we get four. We were assured that only grass and maize were to be used as energy feed, but was ignored. Now dairy waste and non-waste (whatever that is) which was turned down years ago is now on the agenda again. I suppose next it will be food waste, which was forbidden by the environment agency.

- ii. Traffic concerns. Potential for increased traffic. Danger of existing junction 'swan neck'. Road traffic and pedestrian safety. There is already a high number of HGV and slow moving agricultural traffic along the stretch of road. My main objection to this is that even during the very light traffic of the lockdown it is the agricultural vehicles going to the plant that slow the traffic up on the A525 and cause huge tail backs of up to a mile. This is inclined to encourage people to overtake in dangerous places on an already very dangerous road. I still feel the entrances out of the plant are not safe and I have witnessed more than one close miss as vehicles just can't get out as there is a continuous flow of traffic. The roads leading to the plant are not safe for pedestrians, cyclist, horses and other road users. This is to get a lot worse. Currently there is a high level of heavy agricultural traffic in the area which is likely to increase if a broader range of material waste is permitted. The digester has already blighted the residential area by filling Station Road with heavy agricultural traffic travelling at speed from before 6am onwards. This will become unbearable if the present application is accepted.
- iii. Odour concern. The current facility already produces a very strong odour which is unpleasant to neighbouring properties and this would be worse with the processing of dairy and agricultural waste. Will not reduce odour locally as poultry manure is not currently spread on local fields. The receipt of animal waste introduces the risk of odour/chemical emissions from feedstock storage, yet the EA permit only requires odour monitoring at the site boundary to be carried out once per day, whereas odour emissions could be intermittent and peak at different times of day to monitoring. Would continuous monitoring be more appropriate? Can the frequency of odour monitoring/reporting be increased to provide assurance that odour emissions are under control? Can it be confirmed that the use of animal waste as a feedstock in the Broughall Fields AD will not increase odour and ammonia emissions from the digestate? We already have odour problems from the existing site. We are also experiencing at Tilstock Road the stench from Bradshaw's cattle mortuary for fallen livestock which is particularly bad in hot weather. Planning consent has been granted here for 500 houses, two sports centres, a convenience store and a school in a complex of spreading over 75 acres between these two noxious polluters that have come into being since this preceding application was granted. Regarding the resulting digestate it is being claimed that when spread on farmland it produces "far less odour emissions than raw chicken manure" - this does not altogether reassure. We live very close by and have two young children under 7. There are more young children amongst our neighbours. There is a Nursery (with attendees aged from babies upwards) nearby as well as many houses within close proximity to the Digester. I do not wish these children and other residents ( many of whom are elderly - there is also a Residential Home near to the site) to breathe in the stench of chicken waste or to feel they need to limit their enjoyment of the outdoors to avoid the smell. The planning was granted on the proviso, from the Environment Agency, that only crops are used for the feedstock and not animal manure or food waste; which were considered could be a nuisance within the human environment. The smell of this plant is already

overbearing as it is, and it is situated very close to two schools. There is often a smell in this area currently when travelling past and I dread to think what this proposal will do to the economic/health risks to the town moving forward. Noxious odours ( even if intermittent) from this type of digester is well documented and is likely to have a serious adverse effect on everyday life in the nearby residential area leading to restriction in opening windows and accessing outside spaces.

- iv. Health concern. Noxious fumes. The emissions into the air of ammonium sulphate and ammonium nitrate have serious consequences for human health as advised by the MAFF Code of Good Agricultural Practice for the Protection of Air. I have asthma and am very sensitive to changes in air quality. It must be said that we are a rural community and quite used to the usual farming smells (muckspreading etc.) but these are short-lived and seasonal. There is no necessity to grant this application and it poses a significant risk to the health and wellbeing of our community.
- v. Pollution / water resources. There are at least 2 properties on private borehole water supplies in close proximity to the AD site. There is concern that it is possible the private water supplies in question could be being contaminated and that this may be worsened by the introduction of animal waste feedstock. We understand that the EA can only advise on this new feedstock and no longer has the power to prohibit its use - the EA's function is now limited to monitor following any complaints from the public after the new feedstock has been granted consent by Shropshire Council. It is difficult to know who would be responsible should an environmental calamity ensue.
- vi. Noise. With an increase in heavy goods vehicles comes an increase in noise levels. The village of Edgeley is very peaceful in spite of its close vicinity to Whitchurch. I feel that the noise levels of the Digester and its traffic are noticeable at present, but tolerable. I have concerns about any future proliferation in traffic sounds and industrial noise penetrating into our countryside.
- vii. Health and safety. I understand that explosions, though rare, are more commonplace amongst digestors which process animal by-products. I believe that two additional properties have been built very nearby since this planning proposal was originally rejected (during which time not much else has changed so I can't see why it should be allowed now).
- viii. General amenity. The freedom to enjoy your home without bad smells, excess noise etc. is a basic right. If this application is granted it will destroy the beautiful, peaceful countryside locale for many people. Something which in these times of lockdown has been so precious to so many. I for one love to spend time in my garden, from which I can see and hear the Digester site - we are only two fields back from it, and I do not wish to smell it too.
- viii. Other. Waste inputs were rejected in a previous application. What has changed? The application does not specify the mix of feedstock usage permitted and as presently written would permit the 44,000t of feedstock to comprise 100% animal waste, with consequential negative impact on traffic, delivery noise, storage risks, odour and emissions. Can the council confirm that the digestate will be monitored and controlled to within permitted levels? This significant change to the feedstocks, together with other variations that have been approved, effectively takes this site to the terms of the original application from 2014 that was rejected. The same issues that caused that rejection still

apply - proximity of a Pre-School and Children's Soft Play area among them. There is no benefit to the town or any of its' residents by allowing a variation that was so vehemently rejected previously.

- 4.12 Gladman Developments Ltd (GDL). Whilst GDL does not object to the application, we wish to point out that outline planning permission has been granted for a residential led, mixed-use development at Tilstock Road, Whitchurch (13/05077/OUT), a site which is allocated for development in the Council's Site Allocations and Management of Development Plan (SAMDev) under reference WHIT009. We request that any potential impacts to the residential amenity of the future residents of this site are taken into consideration when determining this application and would like to be kept informed of the application's progress.

## 5. THE MAIN ISSUES

- Principle of the development and the proposed variation;
- Environmental implications with reference to:
  - odour;
  - traffic;
  - air quality and health
  - water resources;
- Other issues including enforcement, environmental permitting and effect of a variation under section 73 of the Planning Act.

## 6. OFFICER APPRAISAL

### 6.1 Principle of the development:

6.1.1 The principle of establishing an anaerobic digestion ('AD') facility at this site was established by the original permission reference 14/01398/FUL. It has since been reaffirmed by subsequent permissions including 16/04784/VAR which the current application seeks to vary. The main issue to consider is whether the introduction of waste feedstocks can be supported by relevant policies and guidance.

6.1.2 The proposals are linked to a renewable energy scheme. The National Planning Policy Framework advises that planning authorities should not require applicants for renewable energy schemes to demonstrate the overall need for the renewable energy and should approve the application if its impacts are (or can be made) acceptable (paragraph 154).

6.1.3 The applicant has however justified the proposed variation as giving greater flexibility in sourcing feedstocks using locally available poultry manure which would otherwise be spread in its raw state on fields in the Whitchurch area. There is also a significant financial incentive in using manure as a feedstock which supports the viability of this renewable energy scheme.

6.1.4 The justification for seeking the proposed variation can be accepted. However, it is also necessary to assess the other potential effects of the proposals on the environment in order to determine whether the proposed variation would be sustainable.

### 6.2 Environmental consideration

- 6.2.1 Access and traffic: Objectors have expressed concern that the proposals could lead to an increase in the number of slow agricultural vehicles on this part of the A525 Whitchurch By-Pass, causing traffic safety issues. Some public responses express concerns about the safety of the existing access which has been constructed in accordance with the terms of a legal agreement with the Highway Authority.
- 6.2.2 The applicant has submitted further information on the traffic which is likely to be generated by the proposed variation. It is confirmed that a maximum daily amount of 27 tonnes will form part of the total daily feedstock mix of circa 120 tonnes (i.e. just under 25% of the daily total). This would mean no greater than 10,000 tonnes of poultry manure will be imported to the site in a calendar year. The 27 tonne daily amount of poultry manure would be imported in a single covered trailer from a farm near Burlton. It would be stored under-cover at Burlton prior to transfer by covered trailer to Whitchurch Biogas.
- 6.2.3 Following this clarification the Council's highway advisor WSP has acknowledged that there would be no material increase in traffic and as such there is no objection to the proposals on highway grounds.
- 6.2.4 Odour: Objectors have expressed concerns that the proposal to use agricultural wastes as feedstocks may increase odour. Some respondents report that they already encounter odour issues at the site, particularly early in the mornings. However, the local planning authority has not received any specific formal complaints relating to odour from the site.
- 6.2.5 Following the issue of an environmental permit to accept waste feedstocks the Environment Agency will now have a statutory role in controlling any future odour issues at the site. This has not been the case beforehand as waste feedstocks have not previously been accepted at the facility.
- 6.2.6 A number of measures have been incorporated into the current proposals to minimise the risk of odour. These measures benefit from previous discussions with the Environment Agency under the permitting process:
- i. A single source of poultry manure has been specifically selected for the AD facility. The type of heating at the poultry farm at Burlton reduces the moisture and the corresponding ammonia content of the manure;
  - ii. The manure would be imported in covered loads and would be introduced into the solids feeder immediately upon delivery. There would be no on-site stockpiling during normal operations. Deliveries would be on a 'just in time' basis;
  - iii. If for whatever reason manure has to be stockpiled (e.g. if the solids feeder was to break down on delivery), the manure would be sheeted to prevent odour release. This poultry manure would then be used up prior to the delivery of another load;
  - iv. As a condition of the environmental permit the Environment Agency has stipulated that the poultry manure must be introduced to the AD facility initially at lower levels, starting at only 5 tonnes per day and progressively increased to the maximum 29 tonnes per day. This phased ramp-up will allow for any odour arising to be assessed and, if necessary, mitigated. The permit requires an odour monitoring protocol to be implemented during this phase;

- v. Odour levels would be constantly monitored and if odour emissions become unacceptable the operator will address this in consultation with the Environment Agency and the Planning Authority.
- 6.2.7 The AD process is airtight, hence there is no opportunity for odour to escape during this process. Once the feedstocks have been reacted the resultant digestate is pumped into digestate lagoons which adjoin the site. An objector has expressed concern that introduction of poultry manure into the feedstock mix could potentially increase the odour of the resulting digestate. The digestate arising from the AD process would be stabilised and experience with other Shropshire AD sites indicates that stabilised digestate is not generally a cause of odour related complaints.
- 6.2.8 There are now over 20 operational AD sites of above 5kw capacity in Shropshire and recent odour complaints have been received at just 1 of these. A facility in South Shropshire which uses a different AD technology and accepts a higher proportion of manure in its feedstock mix. A mitigation strategy to address this is currently being implemented. Odour complaints have also previously been received from a site at Bridgnorth which accepts food waste as part of its feedstock mix. However no recent complaints have been received following the introduction of odour mitigation measures.
- 6.2.9 If an increase in odour of the digestate was observed following the introduction of poultry manure to the feedstock mix then the odour management plan linked to the Environment Agency permit would address this. This could potentially require a reduction or cessation of manure importation until the issue had been fully mitigated. The site in South Shropshire referred to above is now dosing its digestate with a bacterial culture to break-down residual ammonia and reduce odour and it is shortly to deploy floating clay balls to cover to its digestate tank. However, it is emphasised that with the exceptions noted above all active AD sites above 5kw in Shropshire receive manure or slurry as a significant part of the feedstock mix and are not generating odour complaints.
- 6.2.10 Notwithstanding this, the applicant would be willing to accept a planning condition requiring submission of a voluntary digestate spreading code of conduct. This would commit to spreading the majority of the digestate on land immediately prior to cultivation in order that it can be rapidly incorporated by ploughing following application by dribble bar. Where this is not possible the applicant has confirmed that the digestate would be injected to the ground and away from residential properties. A condition requiring this has been recommended in Appendix 1. It should be noted that the poultry farm at Burlton currently spreads raw manure on local fields and this is far more odorous than digestate.
- 6.2.11 Regulatory Services and the Environment Agency have not objected. It is considered that any odour issues can be satisfactorily controlled by the environmental permitting process and through the recommended planning conditions.
- 6.2.12 Volume of waste importation: The applicant has confirmed that the volume of poultry manure to be imported to the AD facility would not exceed 10,000 tonnes per year which is less than ¼ of the currently approved annual feedstock tonnage. One respondent has expressed concern that the way the applicant has worded the proposed amended planning condition there would be nothing to prevent the facility from importing a much higher proportion of waste feedstock subsequently, with consequent additional odour concerns.

- 6.2.13 To address this it is recommended that if members are minded to approve the application the condition being varied is amended from the applicant's suggested wording in order to add an additional sub-condition restricting the importation of waste materials including poultry manure to a maximum of 11,000 tonnes per annum, unless further details have first been submitted to and approved in writing by the planning authority. It is considered that this would be more precise than the applicant's wording whilst allowing some appropriate but limited flexibility.
- 6.2.14 Ecology The site is located 950m north of the Brown Moss SSSI/RAMSAR site and Special Area of Conservation. A Habitat Regulations Assessment accompanied the permission being varied. The Council's ecology section found no source-receptor pathways between the site and the proposed development and concluded . that there would be no impact to Brown Moss. Natural England was informed of this conclusion. Conditions relating to landscaping and habitat management were imposed and a significant area of planting to the immediate south of the AD site was delivered.
- 6.2.15 The current proposals would not change the total volume of permitted feedstocks or any other elements of the approved site activities. The only change would be to introduce 25% of agricultural waste into the feedstock mix. The agricultural wastes would replace an equivalent volume of non-waste agriculturally derived feedstocks. Hence any increase in nitrogen concentration in digestate from introduction of agricultural wastes would be offset by the nitrogen which would have been derived from the replaced feedstocks. Additional on-site controls would be applied though the environmental permit to ensure that the AD process operates efficiently. The applicant's agreement to accept a voluntary digestate spreading code of conduct gives additional reassurance and control over such operations relative to the current situation. The Environment Agency has not objected and it is considered that the proposals can be accepted in relation to ecology and biodiversity. (Core Strategy Policy CS17, NPPF chapter 11.
- 6.2.16 Other matters: It is not considered that the proposals would be likely to give rise to any additional impacts in relation to matters such as flood risk, pollution control, noise, dust, working hours, visual impact or artificial lighting relative to the current situation.
- 6.2.17 Gladman developments have been granted outline planning permission for a mixed use scheme on land adjacent to Tilstock Road which extends to within 900m to the west of the site. The land is allocated under the SAMDev plan. Gladman has not objected to the current proposals but has sought reassurance that the proposal to introduce agricultural wastes to the feedstock mix would not be detrimental to the amenity of any future occupants of their development site including new residents.
- 6.2.18 It is considered that the Gladman site is sufficiently distant for the possibility of any effects to be minimal. By comparison, the two nearest existing properties are located approximately 300m from the site. The odour control measures set out above should ensure that the amenity of all properties in the surrounding area is sufficiently protected and such measures would be reinforced by controls available under the environmental permitting regime.
- 6.3 Effect of any grant of permission

6.3.1 The current operational consent (16/04784/VAR) was issued on 30<sup>th</sup> March 2017. As a variation application this superseded the original AD permission 14/01398/MAW, securing a number of layout changes and an increase in output and becoming the main operational consent for the AD facility. The current application seeks a variation to this permission in order to facilitate the importation of agricultural wastes as part of the overall feedstock mix. Approval would result in a new application which would sit alongside permission reference 16/04784/VAR and could be implemented instead of it.

6.3.2 There have been a number of changes since permission reference 16/04784/VAR was issued and some of the original conditions attached to the permission need updating to take account of these changes. The conditions recommended in Appendix 1 are based on this review of the original conditions but also include some additional conditions which officers consider are needed in order to properly define and control the currently proposed variation.

## 7.0 CONCLUSION

7.1 The principle of allowing an AD scheme has been established by the previous planning consents (14/01398/MAW & 16/04784/VAR). The current proposals represent a further development of the AD site which would allow importation of agricultural wastes as part of the feedstock mix.

7.2 The individual issues raised by the proposals have been assessed. No environmental issues have been identified which would suggest any material conflict with relevant development plan policies. There would be no overall increase in traffic relative to the currently approved scheme. Concerns in relation to odour are capable of being controlled by the recommended conditions and additional control would be exercised by the Environment Agency under the permitting process.

7.3 The NPPF requires that applications for renewable energy should be approved if the impacts are, or can be made, acceptable (Para 154). It is concluded that the proposals are capable of being accepted in relation to relevant development plan policies and other relevant considerations. Approval is therefore recommended subject to the conditions set out in appendix 1.

## 8. RISK MANAGEMENT AND OPPORTUNITIES APPRAISAL

### 8.1 Risk Management

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

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

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

8.2.1 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

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

## 8.4 Financial Implications

8.4.1 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.

## 9. BACKGROUND

### RELEVANT PLANNING POLICIES

#### Central Government Guidance:

### 9.1 National Planning Policy Framework (NPPF) (DCLG – July 2011)

9.1.1 The National Planning Policy Framework (NPPF) advises that 'development that is sustainable should go ahead, without delay - a presumption in favour of sustainable development that is the basis for every plan, and every decision'. The framework sets out clearly what could make a proposed plan or development unsustainable.

9.1.2 The Government's objective is that planning should support the transition to a low carbon economy in a changing climate, for instance, by the development of renewable energy (s17). To help increase the use and supply of renewable and low-carbon energy, local planning authorities should recognise the responsibility on all communities to contribute to energy generation from renewable or low-carbon sources. They should:

- have a positive strategy to promote energy from renewable and low-carbon sources, including deep geothermal energy;



- design their policies to maximise renewable and low-carbon energy development while ensuring that adverse impacts are addressed satisfactorily;
- consider identifying suitable areas for renewable and low-carbon energy sources, and supporting infrastructure, where this would help secure the development of such sources;
- support community-led initiatives for renewable and low carbon energy, including developments outside such areas being taken forward through neighbourhood planning; and
- identify opportunities where development can draw its energy supply from decentralised, renewable or low carbon energy supply systems and for co-locating potential heat customers and suppliers (s97).

9.1.3 When determining planning applications, local planning authorities should apply the presumption in favour of sustainable development and:

- not require applicants for energy development to demonstrate the overall need for renewable or low-carbon energy and also recognise that even small-scale projects provide a valuable contribution to cutting greenhouse gas emissions; and
- approve the application if its impacts are (or can be made) acceptable. Once opportunity areas for renewable and low-carbon energy have been mapped in plans, local planning authorities should also expect subsequent applications for commercial scale projects outside these areas to demonstrate that the proposed location meets the criteria used in identifying opportunity areas (s98).

9.1.4 Relevant areas covered by the NPPF include:

- 1. Building a strong, competitive economy;
- 2. Ensuring the vitality of town centres;
- 3. Supporting a prosperous rural economy;
- 4. Promoting sustainable transport;
- 7. Requiring good design;
- 8. Promoting healthy communities;
- 10. Meeting the challenge of climate change, flooding and coastal change;
- 11. Conserving and enhancing the natural environment;
- 12. Conserving and enhancing the historic environment;

9.2 Core Strategy:

9.2.1 The Shropshire Core Strategy was adopted in February 2011 and sets out strategic objectives including:

- To rebalance rural communities through the delivery of local housing and employment opportunities (objective 3);
- To promote sustainable economic development and growth (objective 6);
- To support the development of sustainable tourism, rural enterprise, broadband connectivity, diversification of the rural economy, and the continued importance of farming and agriculture (objective 7);
- To support the improvement of Shropshire's transport system (objective 8);
- To promote a low carbon Shropshire (objective 9) delivering development which mitigates, and adapts to, the effects of climate change, including flood risk, by

promoting more responsible transport and travel choices, more efficient use of energy and resources, the generation of energy from renewable sources, and effective and sustainable waste management.

#### 9.2.2 Core Strategy policies of relevance to the current proposals include:

- CS5: Countryside and Green Belt;
- CS6: Sustainable Design and Development Principles;
- CS13: Economic Development, Enterprise and Employment;
- CS14: Managed release of Employment Land
- CS16: Tourism, Culture and Leisure
- CS17: Environmental Networks
- CS18: Sustainable Water Management

#### 9.2.3 Site Management and Allocation of Development Document (SAMDEV) – The site falls within the Whitchurch area of the emerging SAMDEV but is not subject to any specific allocation. The SAMDEV acknowledges that ‘Shropshire must play its part in providing energy from renewable sources. We want to encourage renewable energy developments but we also need to conserve Shropshire’s high quality environment. Current Government guidance suggests we should develop criteria to enable low carbon and renewable energy development to proceed when there are no significant adverse effects on recognised environmental assets’. Relevant policies include:

- MD2 – Promoting sustainable design;
- MD7b – Managing development in the countryside (seeks to protect heritage, landscape and biodiversity assets);
- MD9 – Safeguarding and improving employment investment (includes seeking to protect existing employment sites in rural areas);
- MD12 – Protecting Shropshire’s natural environment;
- MD13 - Protecting Shropshire’s historic environment.

#### 10. RELEVANT PLANNING AND SITE HISTORY:

- NS/08/02077/ENQ Enquiry regarding development of land REC
- NS/78/00100/FUL Erection of agricultural workers dwelling. GRANT
- PREAPP/13/00485 Erection of a 1 mw Anaerobic digestion plant and associated infrastructure PREAIP 11th November 2013
- S/02/00318/FUL Erection of 11 KV overhead line supported on wooden poles APPRVD 27th June 2002
- 14/01398/MAW Installation of Anaerobic Digestion plant consisting of control building, feedstock/reception building, 30m diameter digester, 30m diameter digestate store, feedstock clamps and all associated works GRANT 19th December 2014
- 15/00835/DIS Discharge of Condition 1 (a and b) and Condition 5 of Planning Permission 14/01398/MAW for the installation of Anaerobic Digester plant consisting of control building, feedstock / reception building, 30 m diameter digester, 30 m diameter digestate store, feedstock clamps and all associated works DISPAR 20th April 2015
- 15/02229/DIS Discharge of Conditions 15 (Complaints procedure), 17 (specifications and surface treatments), 21 (drainage), 22 (Secondary containment), 23 (surface water), 24 ( External lighting) and 26 ( Landscaping) of planning permission

- 14/01398/MAW. DISAPP 15th October 2015
- 15/02293/AMP A non-material amendment to previously granted 14/01398/MAW to amend the Site layout. GRANT 1st June 2015
- 16/00919/VAR Variation of Condition No.s 2 , 3 and 8 attached to Planning Permission 14/01398/MAW dated 19th December 2014 for installation of an anaerobic digestion plant WDN 15th September 2016
- PREAPP/16/00395 Proposed demolition of Broughall Fields Farmhouse and erection of replacement dwelling PREAIP 13th September 2016
- 16/04784/VAR Variation of conditions 2, 3 and 8 attached to 14/01398/MAW dated 19/12/2014 (for installation of an anaerobic digestion plant) to alter the site layout and increase the quantity of feedstock accepted at the site. Approved 30/03/17
- 17/03621/DIS Discharge of Conditions relating to Planning Permission 16/04784/VAR for the Variation of conditions 2, 3 and 8 attached to 14/01398/MAW dated 19/12/2014 (for installation of an anaerobic digestion plant) to alter the site layout and increase the quantity of feedstock accepted at the site. Part-Approved 19/03/18
- 18/00324/MAW Installation of additional infrastructure at an operational Anaerobic Digester (AD) site, and the installation of two digestate lagoons PDE

## 11. ADDITIONAL INFORMATION

### 11.1 Policies material to the determination of the application

In determining the Local Planning Authority gave consideration to the policies listed in section 10 of this report.

### 11.2 Link to application documents:

<https://pa.shropshire.gov.uk/online-applications/applicationDetails.do?activeTab=documents&keyVal=Q9VE5ETDMEW00>

List of Background Papers: Planning application reference 20/01783/VAR and associated plans and documents
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Cabinet Member (Portfolio Holder) Cllr G.Butler
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Local Member: Cllr Gerald Dakin (Whithurch South)
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Appendices: Appendix 1 – Conditions
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## **APPENDIX 1**

### **Conditions**

**Condition 6 of permission reference 16/04784/VAR shall be varied to read as follows:**

6. The principal uses of the Site shall be restricted to:
- i. The anaerobic digestion process and the associated receipt, handling and storage of agricultural and dairy waste and non-waste feedstocks;
  - ii. Generation of electricity and heat and other ancillary operations associated with the above activities.”

Reason: To define the type and sources of materials permitted to be managed and handled at the Site in accordance with the approved scheme, in the interests of general amenity and to protect surface and groundwater from pollution.

**The following conditions shall also apply:**

#### COMMENCEMENT OF DEVELOPMENT

- 1a. The development to which this planning permission relates shall be deemed to have been implemented on the date of this permission.
- b. Not less than seven days prior notice shall be given in writing of the intended date for the commencement of waste importation under the terms of this permission. Such date shall be referred to hereinafter as “the waste importation commencement date”.

Reason: To comply with Section 91(1) of the Town and Country Planning Act 1990 (1a), to define and provide appropriate advance notice for commencement of the use hereby approved (1b).

#### DEFINITION OF SITE AND DEVELOPMENT

2. This planning permission shall only relate to the area edged red on the block plan approved under permission reference 16/04784/VAR (drawing number SA22500/03) hereinafter referred to as "the Site".

Reason: To define the area to which this planning permission relates.  
(*Note: Amended wording from equivalent condition in 16/04784/VAR*)

3. Except as otherwise provided in the conditions attached to this permission the operations and uses hereby permitted shall be carried out strictly in accordance with the approved scheme comprising the application form dated 24<sup>th</sup> April 2020 and the accompanying documents.

Reason: To define the permitted development.  
(*Note: Amended wording from equivalent condition in 16/04784/VAR*)

4. *Note. Condition attached previously permission reference 16/04784/VAR refers to the construction phase and has now been superseded.*
5. The site access and internal circulation areas shall be cleaned as necessary with a tractor mounted brush or other similar device in order to prevent the trafficking of mud onto the public highway.

Reason: In the interests of highway safety.

#### USE OF THE FACILITY AND CONTROL OF TONNAGES

6. *This Condition attached previously to permission reference 16/04784/VAR has been varied as indicated above.*
- 7a. The maximum tonnage of materials imported to the Site in any calendar year shall not exceed 44,000 tonnes of which not more than 17,000 tonnes shall comprise waste materials. For the avoidance of doubt a calendar year shall comprise the period between 1st January and 31st December.
- b. The Site operator shall maintain a record of the tonnage of materials including energy crops and whey permeate delivered to the Site and the numbers of associated HGVs and tractor and trailer loads. The record shall be made available to the Local Planning Authority upon prior written request. A report of the total tonnage of feedstocks imported to the Site in each successive calendar year shall also be provided to the Local Planning Authority in writing within one month of the year end.

Reason: To ensure that the development remains within the general levels of activity specified in the planning application in the interests of highway safety and general amenity whilst having regard to the fact that different potential feedstocks may have different calorific values (7a). To facilitate monitoring of tonnages imported to the anaerobic digestion facility by the Local Planning Authority (7b).

*(Note: Amended wording from equivalent condition in 16/04784/VAR)*

*Note: The operator should employ traffic management measures to reduce the impact of Site traffic during peak times such as harvesting. Consideration should be given to:*

- *Control of dispatch of vehicles from the Site to reduce the possibility of tractor and trailer units associated with the Site meeting on narrower parts of the public highway;*
- *Reducing the need where possible to harvest different crops within the supplying farms unit at a similar time;*
- *Controlling the importation of whey permeate so that it is not coincident with harvesting or digestate spreading wherever possible;*
- *Ensuring drivers of AD tractors & trailers adhere to appropriate speed limits and safeguards whilst negotiating the local highway network;*
- *Providing identification markings so that vehicles using the Site can be readily identified.*

#### ACCESS

8. *Note. Condition attached previously permission reference 16/04784/VAR refers to the construction phase and has now been superseded.*

Advisory Note:

*This planning permission does not authorise the applicant to:*

- *construct any means of access over the publicly maintained highway (footway or verge) or*
- *carry out any works within the publicly maintained highway, or*
- *authorise the laying of private apparatus within the confines of the public highway including any a new utility connection, or*
- *undertake the disturbance of ground or structures supporting or abutting the publicly maintained highway*

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

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

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

#### STORAGE

- 9a. The storage of feedstock materials at the Site in connection with the anaerobic digestion process hereby approved shall not take place other than in the approved feedstock reception areas which are shown on the approved plans.
- b. No waste feedstocks shall be stored at the facility except in case of emergency. All such feedstocks shall be imported and introduced to the solid feeder on the basis of a 'just in time' supply procedure.

Reason: To ensure that storage of feedstocks for the anaerobic digester can be adequately accommodated within the overall Site layout and in the interests of general and visual amenity.

#### NOISE

10. Noise from the operation of plant in the engine room (together with noise from system pumps, and from any other associated plant) shall be attenuated to achieve a calculated level which does not exceed 5 decibels (dB(A)) above the night time background noise level outside the nearest noise sensitive property.

Reason: To protect the amenity of the occupiers of nearby properties.

- 11a. The following noise attenuation measures shall be applied during operation of the site:
- i. All vehicles and mechanical plant employed at the Site shall be fitted with effective exhaust silencers which shall be maintained in good efficient working order.
  - ii. Machines in intermittent use shall be shut down or throttled down in the intervening periods when not in use or throttled down to a minimum.

- iv. All ancillary plant such as generators, compressors and pumps shall be positioned so as to cause minimum noise disturbance;
- b. All fixed and mobile plant based at and operating within the Site shall be fitted with attenuated reversing alarms. Details of the types of reversing alarm proposed to be fitted to vehicles / plant under the terms of this condition shall be submitted for the approval in writing of the Local Planning Authority prior to the Commissioning Date.

Reason: To minimise the possibility of adverse noise impact from Site operations at the closest receptor locations, including properties adjacent to the access from the public highway.

- 12. All yard surfaces and circulation areas within the Site shall be swept as necessary to remove mud / debris and water shall be applied to such areas as appropriate during dry conditions in order to prevent the generation of dust.

Reason: To reduce the impact on local amenities and air quality of dust arising from Site operations.

#### PEST / VERMIN CONTROL

- 13. *Note. The Condition attached previously to permission reference 16/04784/VAR refers to a pre-commencement information requirement which has subsequently been discharged.*

#### ODOUR

- 14. Within 2 months of the date of this permission an updated odour management plan shall be submitted for the approval in writing by the Local Planning Authority. The plan shall be implemented in accordance with the approved details and shall include a voluntary code for spreading of digestate.

Reason: To reduce the risk of any odour nuisance arising from the permitted operations.  
(Note: Amended wording from equivalent condition in 16/04784/VAR)

- 15. *Note. The Condition attached previously to permission reference 16/04784/VAR refers to a pre-commencement information requirement which has subsequently been discharged.*

#### HOURS OF OPERATION

- 16a. With the exception of use of the generator and normal continuous running of the anaerobic digestion process no operations hereby permitted shall be undertaken at the Site, except during the following hours:

Mondays to Fridays	07.00 to 21.00 hours
Saturdays:	07.00 to 21.00 hours
Sundays / Bank Holidays	08.30 to 18.30 hours

- b. Notwithstanding Condition 16a, provision shall apply for extended working for not more than 10 periods in any calendar year in order to cater for exceptional circumstances. During periods of extended working no operations hereby permitted shall be undertaken at the

Site, except within the hours specified in Condition 16a above and during the following hours:

Mondays to Fridays	05.00 to 23.00 hours
Saturdays:	05.00 to 23.00 hours
Sundays / Bank Holidays	06.30 to 20.00 hours

Records of extended working under this condition shall be maintained and shall be provided to the Local Planning Authority upon request.

- c. Construction activities shall be restricted to within the following times:

Monday to Friday: 07:30- 18:00,  
Saturdays: 08:00 - 13:00.  
No construction shall occur on Sundays or bank holidays.

- d. Vehicle movements and deliveries during construction shall be restricted to the following times:

Monday to Friday: 07:30- 18:00,  
Saturdays: 08:00 - 13:00.  
No construction shall occur on Sundays or Bank Holidays.

Reason: To ensure that operational times at the Site are controlled in order to reduce the impact of the development on the local area and amenities (16a, c, d) whilst making appropriate provision for extended working to cater for exceptional circumstances (16b).

*Note: Wherever possible, the Local Planning Authority should be notified in advance of any proposed periods of extended working under the terms of Condition 16b.*

#### BUILDINGS, STRUCTURES AND PLANT

17. *Note. Condition attached previously permission reference 16/04784/VAR refers to the construction phase and has now been superseded.*

18. All buildings, hard surfaces and fencing within and on the boundaries of the Site shall be maintained in an orderly state and fit for purpose, including maintenance of even, pothole free running surfaces in circulation areas for vehicles and plant.

Reason: To ensure that the Site is maintained to an acceptable standard in the interests of health and safety and general amenity.

19. Not more than one digester tank shall be constructed and used at the site under the terms of this permission.

Reason: For the avoidance of doubt and to define the permission.

#### GENERAL PERMITTED DEVELOPMENT ORDER

20. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 2015 (or any order revoking and re-enacting that Order with or without



modification), no buildings, demountable structures, fixed plant, or structures of the nature of buildings or fixed plant, and no fence or soil mound, in addition to those shown on the approved plans listed in condition 3 above, shall be erected at the Site unless approval in writing for their details and specification has first been obtained from the Local Planning Authority.

Reason: To maintain control over the appearance of the site and ensure that the development is in accordance with the permitted details.

#### POLLUTION CONTROL AND DRAINAGE

21. *Note. Condition attached previously permission reference 16/04784/VAR refers to the construction phase and has now been superseded.*
22. *Note. Condition attached previously permission reference 16/04784/VAR refers to the construction phase and has now been superseded.*
23. *Note. Condition attached previously permission reference 16/04784/VAR refers to the construction phase and has now been superseded.*

#### Advisory Notes:

- i. *The use of soakaways should be investigated in the first instance for surface water disposal. Percolation tests and the sizing of the soakaways should be designed in accordance with BRE Digest 365 to cater for a 1 in 100 year return storm event plus an allowance of 20% for climate change. Flood water should not affect other buildings or infrastructure. Full details, calculations and location of the percolation tests and the proposed soakaways should be submitted for the approval in writing of the Local Planning Authority prior to the Commencement Date. Surface water should pass through a silt trap or catchpit prior to entering the soakaway to reduce sediment build up within the soakaway.*
- ii. *If soakaways are not feasible, drainage calculations to limit the discharge rate from the site equivalent to a greenfield runoff rate should be submitted for approval under the scheme required by Condition 23a. The attenuation drainage system should be designed so that storm events of up to 1 in 100 year + 20% for climate change will not cause flooding of any property either within the proposed development or any other in the vicinity.*
- iii. *All concrete areas where feedstock and digestate are handled should have a system in place to allow for water that may be contaminated to be diverted away from the clean water disposal route in to the dirty water system.*
- iv. *Any contaminated/dirty wash water should be collected via impermeable surfaces and disposed of to an appropriate system. The applicant should incorporate measures to prevent the transmission of oils, fuel, or other hazardous materials from entering the AD process. For example, a separate sealed drainage system for areas likely to be contaminated with any wheel washing or oils etc. should be installed, perhaps with a sump system for disposal elsewhere in the absence of a mains foul sewer connection.*

- v. *As part of the sustainable urban drainage scheme ('SUDS'), the applicant is encouraged to employ the following measures:*
- Permeable surfacing on any new driveway, parking area/ paved area;
  - Rainwater harvesting system;
  - Greywater recycling system;
  - Green roofs;
  - Water Butts.

## LIGHTING

- 24a. *Note. The Condition attached previously to permission reference 16/04784/VAR refers to the construction phase and has now been superseded.*

### Advisory Notes:

- i. *The submitted scheme shall also be designed to take into account the advice on lighting set out in the Bat Conservation Trust booklet Bats and Lighting in the UK.*
  - ii. *In order to reduce the likelihood of complaints regard should be had to the following considerations when considering the design of lighting schemes:*
    - *What is the minimum lighting level required and what areas require lighting.*
    - *Where could light produced have the potential to impact upon others? By considering which areas may be most sensitive to light it may be possible to reduce the need for lighting in these areas and in turn remove the likelihood of any complaint being received*
    - *Sky glow should be minimized. As a result it is recommended that no light is emitted above horizontal and ideally all lighting should be angled below 90 degrees from vertical.*
    - *Glare should be minimised by giving careful thought to the positioning and orientation of lighting as well as the need for baffling and appropriate light fittings*
    - *Light spill should be reduced wherever possible. It is this aspect that is most likely to give rise to complaints. In order to reduce light spill the use of double asymmetric light fittings is suggested. They should be appropriately angled to stop light spilling onto/into other properties*
    - *Where lighting is not required all of the time, e.g. security lighting, floodlighting of a sports field, it is recommended that sensors are used with an appropriate cut off time or that lighting is on a timer to ensure that lights go off once activities have finished*
    - *The lowest Wattage lighting should be used in order to reduce glare and light spill.*
25. *Note. The Condition attached previously to permission reference 16/04784/VAR refers to the construction phase and has now been superseded.*

## LANDSCAPING AND AFTERCARE

- 26a. *Note. The Condition attached previously to permission reference 16/04784/VAR refers to the construction phase and has now been superseded.*
27. All new planting within the Site shall be subject to aftercare / maintenance for a period of 5 years following planting, including cultivation and weeding. Any trees or plants that are

removed, die or become seriously damaged or defective within the aftercare period, shall be replaced with others of species, size and number as originally approved, by the end of the first available planting season.

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

- 28a. *Note. The Condition attached previously to permission reference 16/04784/VAR refers to the construction phase and has now been superseded.*

Advisory Notes:

- i. *All species of bats found in the UK are European Protected Species under the Habitats Directive 1992, the Conservation of Species and Habitats Regulations 2010 and the Wildlife & Countryside Act 1981 (as amended). If a live bat should be discovered on site at any point during the development then work must halt and a licenced bat ecologist should be contacted for advice.*
- ii. *The active nests of all wild birds are protected under the Wildlife & Countryside Act 1981 (As amended). An active nest is one being built, containing eggs or chicks, or on which fledged chicks are still dependent. Operations shall be managed to avoid the need to commence work affecting vegetation in the bird nesting season which runs from March to September inclusive. If it is necessary for work affecting vegetation to commence in the nesting season then a pre-commencement inspection of the vegetation and buildings for active bird nests shall be carried out. If vegetation cannot be clearly seen to be clear of bird's nests then an experienced ecologist shall be called in to carry out the check. Work affecting vegetation shall not proceed unless it can be demonstrated to the Local Planning Authority that there are no active nests present.*

ANNUAL REVIEW

- 29a. An annual review meeting involving the operator to the Local Planning Authority shall be held in order to review the performance of the Site over the previous calendar year in relation to the requirements of conditions attached to this Planning Permission. The meeting shall be held no later than 3 months after the year end.
- b. The annual review meeting shall also assess the potential for utilizing additional heat from the CHP unit with provision for taking appropriate further action in the event that identified trigger levels are reached.

Reason: To provide a suitable mechanism for the ongoing review of Site operations.

CESSATION OF USE

- 30a. Not less than 2 weeks prior notice in writing shall be provided to the Local Planning Authority of the permanent cessation date for the operations hereby approved, or for any temporary cessation of operations for in excess of one month.
- b. Not less than 6 months prior to the planned date for any permanent decommissioning of the development hereby approved the operator shall submit proposals for decommissioning of the development within an agreed timescale for the approval of the

Local Planning Authority. Such plans shall make provision for leaving the site in a condition suitable for future development, with provision to remove all buildings, hardstandings and structures which are not required in connection with the Site's subsequent afteruse.

Reason: To ensure that the Site is left in a tidy condition capable of a beneficial afteruse in the event of any permanent decommissioning of the development hereby approved.

#### ON SITE RETENTION OF APPROVED DOCUMENTS

31. A copy of this planning permission and any schemes permitted under its terms and conditions shall be retained at the Site and be available for inspection by staff at the Site and officers of the Local Planning Authority.

Reason: To ensure staff on Site are aware of planning controls to be complied with.

#### Informative Notes:

#### Ecology:

- i. *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.*
- ii. *The active nests of all wild birds are protected under the Wildlife and Countryside Act 1981 (as amended). An active nest is one being built, contains eggs or chicks, or on which fledged chicks are still dependent. It is a criminal offence to kill, injure or take any wild bird; to take, damage or destroy an active nest; and to take or destroy an egg. There is an unlimited fine and/or up to six months imprisonment for such offences. All vegetation clearance, tree removal, scrub removal, conversion, renovation and demolition work in buildings, or other suitable nesting habitat, should be carried out outside of the bird nesting season which runs from March to August inclusive. If it is necessary for work to commence in the nesting season then a pre-commencement inspection of the vegetation and buildings for active bird nests should be carried out. If vegetation or buildings cannot be clearly seen to be clear of nests then an appropriately qualified and experienced ecologist should be called in to carry out the check. Only when there are no active nests present should work be allowed to commence. No clearance works can take place with 5m of an active nest. If during construction birds gain access to any of the buildings/vegetation and begin nesting, work must cease until the young birds have fledged.*
- iii. *Where possible trenches should be excavated and closed in the same day to prevent any wildlife becoming trapped. If it is necessary to leave a trench open overnight then it should be sealed with a closefitting plywood cover or a means of escape should be provided in the form of a shallow sloping earth ramp, sloped board or plank. Any open pipework should be capped overnight. All open trenches and pipework should be inspected at the start of each working day to ensure no animal is trapped.*

#### Highways

Works on, within or abutting the public highway

iv. *The planning permission does not authorise the applicant to:*

- *construct any means of access over the publicly maintained highway (footway or verge) or*
- *carry out any works within the publicly maintained highway, or*
- *authorise the laying of private apparatus within the confines of the public highway including any a new utility connection, or*
- *undertaking the disturbance of ground or structures supporting or abutting the publicly maintained highway*

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

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

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

Design of street lighting for Sections 278

v. *The applicant's attention is drawn to the requirement that, in all cases where an Agreement under Section 278 of the Highways Act 1980 is entered into, the street lighting will be designed by the developer of the site in accordance with the design brief issued by the Highway Authority and their design shall include any necessary amendments to the existing system*

Landscaping

vi. *Should any proposed trees or shrubs be located in close proximity of any proposed or existing public highway infrastructure, appropriate root protection systems (to be approved) will need to be constructed in order to mitigate against any future root damage to roads, footways and services beneath. Also any other landscaping or planting adjacent to the future highway will require appropriate maintenance and service arrangements in order to maintain any required visibility splays and to keep leaf litter clear of footways and carriageways, etc., in the interests of highway safety.*

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Committee and Date  
 Northern Planning Committee  
 10<sup>th</sup> November 2020

Item  
**6**  
 Public

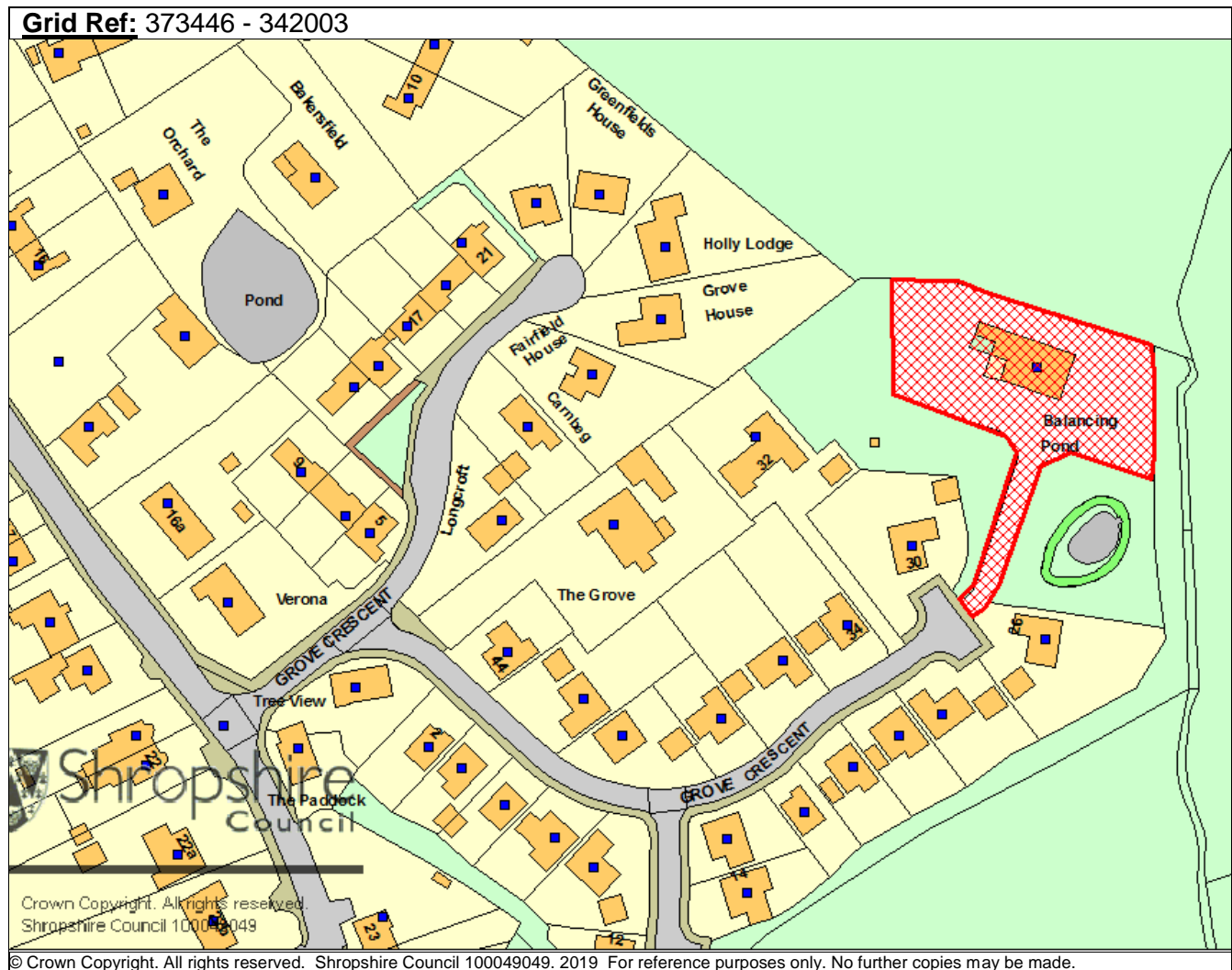
## Development Management Report

Responsible Officer: Tim Rogers

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

### Summary of Application

<b><u>Application Number:</u></b> 20/02976/FUL	<b><u>Parish:</u></b>	Woore
<b><u>Proposal:</u></b> Erection of one self build 5 bedroom detached dwelling house, with a link attached garage, installation of ground mounted solar panel array; and the formation of vehicular access; associated landscaping works		
<b><u>Site Address:</u></b> Proposed Dwelling At 28 Grove Crescent Woore CW3 9SX		
<b><u>Applicant:</u></b> Mr Donald Craven		
<b><u>Case Officer:</u></b> Alison Lloyd	<b><u>email :</u></b> planning.northern@shropshire.gov.uk	



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

## REPORT

### 1.0 THE PROPOSAL

1.1 This application seeks planning approval for the erection of one self build 5 bedroom detached dwelling house, with a link attached garage / office building, installation of ground mounted solar panel array; and the formation of vehicular access; associated landscaping works

1.2 Adjoining site planning history;  
12/04496/OUT - Outline application (access & layout) for the erection of 21 dwellings, formation of vehicular access, provision of recreational facility including parking and clubhouse and development of wildlife corridor – Approved 12.11.2016

16/01371/REM - Reserved matters application (appearance, landscaping and scale) pursuant to outline application ref 12/04496/OUT for the erection of 21 dwellings, formation of vehicular access, provision of recreational – Approved 24.11.2016



16/01372/VAR - Variation of Condition no. 2 (approved drawings) attached to Outline application ref 12/04496/OUT to allow for an amended site layout plan – Approved 24.11.2016

18/02585/FUL - Erection of one dwelling with detached triple garage; installation of ground mounted solar panel array; formation of vehicular access - Withdrawn 08.10.2018

19/03631/FUL - Erection of one dwelling and detached 3-bay two storey garage - Withdrawn 28.10.2019

## **2.0 SITE LOCATION/DESCRIPTION**

2.1 The land to which this application relates lies within the village of Woore and is situated within the adopted Woore Neighbourhood plan development boundary. The land to which this application relates sits to the north / east of a recently completed housing development known as Grove Crescent, adjoining the wildlife corridor, bio-retention pond, the area of open space to support the occupants of Grove Crescent.

2.2 The site is to be access via the estate road “Grove Crescent”.

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

3.1 Woore Parish Council object to the proposed development and the planning officers recommendation is for approval. The matter has been discussed with the Committee Chair and Vice-Chair, it was agreed that the Parish Council have raised material considerations that are worthy of Committee consideration.

## **4.0 Community Representations**

### **4.1 Consultee Comments**

#### **4.1.1 Affordable Housing**

If the development is policy compliant then whilst the Council considers there is an acute need for affordable housing in Shropshire, the Councils housing needs evidence base and related policy pre dates the judgment of the Court of Appeal and subsequent changes to the NPPG, meaning that on balance and at this moment in time, then national policy prevails and no affordable housing contribution would be required in this instance.

#### **4.1.2 SUDs**

Condition and Informatives advised

#### **4.1.3 Severn Trent Water**

As the proposal has minimal impact on the public sewerage system I can advise we have no objections to the proposals and do not require a drainage condition to be applied.

#### **4.1.4 Ecology**

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

#### **4.1.5 Tree Officer**

No protected or significant amenity trees are affected by this proposal. The application is supported by a landscape strategy which I support and agree that detailed planting specifications, including suitable species for the proposed new avenue, can be submitted as part of a discharge of conditions application.

#### 4.1.6 Highways

No objection – subject to the development being constructed in accordance with the approved details and the advised conditions and informative notes.

#### 4.1.7 Natural England

Natural England has no comments to make on this application.

#### 4.1.8 Conservation Team

No comments in conservation terms.

#### 4.1.9 Outdoor Recreation Team

No comments to make on the application

### 4.2 Public Comments

#### 4.2.1 Woore Parish Council reaffirms its views since the prior application in August 2019 (18/02585/FUL) and object to this current application on the following grounds;

1. The site of the application forms part of the larger site which was the subject of the earlier planning application no. 12/04496/OUT. In response to the earlier application, outline planning permission was granted for the erection of 21 dwellings, the formation of a vehicular access, the provision of open space, a recreational facility (namely a bowling green or tennis courts), including parking and a clubhouse, and the development of a wildlife corridor. The location of the intended recreational facility and parking and clubhouse are shown on the proposed site plan which was published on Shropshire Council's Planning Portal on 2nd November 2012. A further planning application, no. 16/01372/VAR, which was approved by Shropshire Council on 24th November 2016, varied Condition No 2 (approved drawings) attached to the outline permission to allow for an amended site layout plan. One of the changes permitted by the decision dated 24th November 2016 was the replacement of the recreational facility by a landscaped area, pond and a larger wildlife corridor.

*Case Officer comments: The details as previously approved will remain in place and unaffected by this proposed development, officers would like to point out that if approved this development will in their opinion improved the overall site landscaping and the connectivity between the open space and wildlife corridor.*

2. The development permitted by the above planning permissions is being carried out in that the construction of some houses is complete and the construction of others is under way. The site of the current application is where the recreational facility and the associated parking and clubhouse were to be located in accordance with outline permission no. 12/04496/OUT and where the replacement landscaped area (or "landscaped open space" as it is described on both Plan P05 being the Proposed Site Layout published on the Planning Portal on 4th April 2016 and Plan P05 Rev Y being the Development Layout published on 3rd June 2016, on both of which it is the entire area left in white) was to be located in place of the recreational facility. It is the PC's contention that the granting of permission in respect of the current application, and the construction of the house in accordance with that permission, would render completion of the development permitted by permissions nos. 12/04496/OUT and 16/01372/VAR impossible. It is the PC's contention that those permissions, having been implemented, cannot now be abandoned.

*Case Officer comments: As noted within the comments made above the area of land to which this application relates was left undeveloped as part of the previous approvals and no control measures were put in place to secure the land for recreational facilities, Woore Parish Council have since included the land with the village development boundary, which now allows the lands to be considered acceptable for development.*

3. The importance of the provision of open space in connection with new housing developments is addressed in SAMDEV. In this regard, the PC would refer to, and rely on, the comments and observations at paragraph 4.1.2 of the Report of the Planning Officer who dealt with planning application no 16/01372/VAR. That Report was published on Shropshire Council's Planning Portal on 24th November 2016. The PC suggests that it would be inappropriate to remove any of the landscaped open space provided for in that planning application. In other words, the granting of planning permission for the current application would have the detrimental effect of removing the landscaped open space provided for by application no. 16/01372/VAR.

*Case Officer comments: The details as previously approved will remain in place and unaffected by this proposed development, officers would like to point out that if approved this development will overall and on balance improve the overall site landscaping and the connectivity between the open space and wildlife corridor.*

4. The current application ecology report proposes the use of Laurel as a hedgerow plant which will border the fields. Laurel is an urban plant and is not in-keeping with the surroundings.

*Case Officer comments: Shropshire Council qualified Ecology Officer has been consulted on this application and supports the proposed landscaping scheme and enhance measure that will be put in place as a result of the development. The proposed development will improve the site visually and is supported by residents of the adjoining housing estate.*

5. The footprint of the proposed dwelling is far larger than that of the existing barn which is a single storey dwelling.

*Case Officer comments: The application site is within the Woore village neighbourhood plan development boundary, which now allows the lands to be considered acceptable for development. The siting of the proposed has been considered in relation to the barn that is to be demolished, to ensure it respects the form and layout of the landscape, planning policies ensure all new development is of an appropriate scale and design, however it does not dictate that it must reflect the footprint of a redundant building to be removed. Siting, scale and design of the development is discussed in further detail in section 6.3 of this report.*

4.2.2 A site notice was displayed on site from the 05.08.2020 for a 21day period

4.2.3 Public Representations: (1 x neutral)

Support x 13

- Will improve the site visually, as a redundant rundown neglected barn currently sits on the plot
- The wildlife area remains unaffected.

- Will provide security for existing residents
- Will complete the development
- Will help the economy
- Support the village of Woore
- Design is sympathetic to the surroundings and will enhance the site
- Landscaping is of an improvement to the current landscaping in place, improving views for all occupants of the estate
- Will improve the wildlife provision on the site

#### Objection x 1

- Out of character with the existing development
- Narrow Access to the site / traffic flow during development
- Impact to wildlife
- Noise impacts to neighbouring properties
- No mention of maintenance costs with regards to landscaping and drainage pump
- Concerns with regards to demolition of barn and the birds of prey who occupy the redundant barn
- stream maintenance due to be carried out will removed landscape screening to northern boundary (minimal screening in place current)
- Road signage needed to stop confusion of road users (officer has passed their comments to street works team)

All material planning matters have been acknowledged and fully considered by the officer within section 6 of this report.

## 5.0 THE MAIN ISSUES

Principle of development

Adjoining Open Space / Potential recreational facility

Siting, scale and design of structure

Surrounding Amenity / Highways

Drainage

Landscaping / Ecology

## 5.1 Relevant Planning Policies

Shropshire Core Strategy

CS4: Community Hubs and Community Clusters

CS6: Sustainable Design and Development Principles

CS17: Environmental Networks

CS18: Sustainable Water Management

SAMDev Plan

MD1: Scale and Distribution of Development

MD2: Sustainable Design

MD12: Natural Environment

S11.2(vii): Woore, Irelands Cross and Pipe Gate

Woore Neighbourhood Plan 2016 – 2036

National Planning Policy Framework

Further details and extracts from the relevant planning policy documents are detailed in the officer's considerations below:

## **6.0 OFFICER APPRAISAL**

### **6.1 Principle of development**

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

6.1.2 The NPPF sets out the presumption in favour of sustainable development as a golden thread running through plan-making and decision-taking, so it applies, as a material planning consideration, in any event. The NPPF specifically aims to 'boost significantly the supply of housing' therefore, the fact (and degree) that a proposed development helps to boost housing supply is a significant material consideration to which considerable weight must be attached. These considerations have to be weighed alongside the provisions of the Development Plan, including those relating to housing supply

6.1.3 Policy MD1: Scale and Distribution of Development of the SAMDev Plan states that Specifically, sustainable development will be supported in Shrewsbury, the Market Towns and Key Centres, and the Community Hubs and Community Cluster settlements identified in Schedule MD1.1, having regard to Policies CS2, CS3 and CS4 respectively and to the principles and development guidelines set out in Settlement Policies S1-S18 and Policies MD3 and MD4.

6.1.4 Policy CS4: Community Hubs and Community Clusters in the Shropshire Core Strategy indicates that in the rural areas, communities will become more sustainable by focusing development in community hubs and clusters, and not allowing development outside these settlements unless it meets policy CS5. Policy CS4 also indicates that all development in Community Hubs and Community Development in Clusters must be of a scale and design that is sympathetic to the character of the settlement and its environs, and satisfies Policy CS6. Policy CS5 indicates a number of controls for development outside of these areas, stating that certain development proposals on appropriate sites which maintain and enhance countryside vitality and character will be permitted where they improve the sustainability of rural communities by bringing local and economic and community benefits.

### **The SAMDev Plan refers to Woore:**

6.1.5 S11.2(vii): Woore, Irelands Cross and Pipe Gate

'Woore, Irelands Cross and Pipe Gate are a Community Hub reflecting the links between the three areas within the Parish. Woore has provided for significant housing growth through the North Shropshire Local Plan, with housing development on two significant sites providing 75 homes. There is therefore limited potential for development of approximately 15 dwellings over the period to 2026 which will be delivered through

limited infilling, conversions and small groups of houses which may be acceptable on suitable sites within the villages, avoiding ribbon development along the A51. Any development must respect the sensitive gap between Woore, Irelands Cross and Pipe Gate to prevent coalescence of the settlements.

The Council's SAMDev Plan indicates Woore as part of a community hub, where development within its built up area is considered acceptable. Any development must respect the sensitive gap between Woore, Irelands Cross and Pipe Gate to prevent coalescence of the settlements.

**6.1.6 Woore Neighbourhood Plan 2016 – 2036** Covering the Parish of Woore which includes Woore, Pipe Gate, Gravenhunger, Dorrington, Ireland's Cross, Bearstone and part of Onneley, was formally adopted in July 2019 and now forms part of the statutory Development Plan for the area.

Both the Core Strategy and SAMDEV are extremely supportive of Neighbourhood Plans, as is the emerging Local Plan review. The Core Strategy highlights that Neighbourhood Plans will become part of the Local Development Framework, whilst policies in SAMDEV acknowledge the key role played by Neighbourhood Plans by cross referring to, and where appropriate requiring proposals to take account of the local requirements set out in Neighbourhood Plans.

#### **The Neighbourhood Plan Vision:**

The Parish of Woore will continue to be a vibrant, thriving community with improved facilities and amenities for all its residents and visitors. New developments of an appropriate scale will have provided a mix of housing to reflect local needs, along with necessary improvements to local infrastructure. Developments will be sensitively located and designed to ensure that the cherished natural environment and rural character of the parish is maintained.

The Neighbourhood Plan Objectives:

- To ensure that any new housing developments be relatively small, unobtrusive and reflect local needs
- To maintain the rural character of the Parish of Woore respecting the sensitive gaps between settlements
- To support a thriving village centre and enhance the rural economy
- To improve the local infrastructure
- To protect and enhance community services and amenities
- To protect and enhance the natural environment

#### **POLICY HOU1 – SCALE AND LOCATION OF NEW HOUSING**

Development boundaries around the individual parts of the community hub of Woore, Irelands Cross and Pipe Gate are defined and shown on Figure B. Within the development boundaries, in order to meet local housing needs, and to remain on a scale appropriate to the existing character of Woore Parish, it is envisaged that around 30 additional dwellings from 2016-2036 will be delivered, incorporating small scale residential developments of up to ten dwellings per development. Outside these settlements the parish is designated as open countryside, where new development will be strictly controlled in line with the development plan and national policies.

**POLICY HOU2 – HOUSING DEVELOPMENT**

Housing developments within the settlements of Woore, Irelands Cross and Pipe Gate will be supported where they have regard to the following:

- a) do not adversely affect local landscape character and visual amenity
- b) maintains the gaps between settlements
- c) are located on brownfield land
- d) infill a gap in the continuity of existing frontages
- e) are a conversion of existing buildings
- f) replace an existing building
- g) do not adversely affect heritage assets or their settings.

- 6.1.7 The land to which this application relates lies within the village of Woore and is situated within the adopted Woore Neighbourhood plan development boundary. The proposed land to which this application relates sits to the north / east of a recently completed housing development known as Grove Crescent, adjoining the wildlife corridor, bio-retention pond, and the area of open space to support the occupants of Grove Crescent.

As detailed above the site falls within the village neighbourhood plan and is therefore looked upon as sustainable development and is policy compliant in this regard. The development of this land will help defined the site boundaries, against the countryside which proceeds out to the north / east. The site currently accommodates a redundant barn and local residents welcome the development as it will enhance the site visually whilst creating a sense of security to the residents of Grove Crescent.

For these reasons the principle of development is supported by both local and national planning policies.

**6.2 Adjoining Open Space & potential recreation facility (Adjoining housing site)**

- 6.2.1 As mentioned above in the site description, a housing estate known as Grove Crescent sits to the south / west of the site and concerns have been raised by Woore Parish Council that this development will result in the loss of open space and recreational land.

Under Shropshire Council's SAMDev Plan and MD2 policy requirement, adopted 17th December 2015, all development will provide adequate open space, set at a minimum standard of 30sqm per person (equivalent to 3ha per 1,000 population). For residential developments, the number of future occupiers will be based on a standard of one person per bedroom. For developments of 20 dwellings and more, the open space needs to comprise a functional area for play and recreation.

The previously approved housing development to which this site adjoins, includes 83 bedrooms, (83 x 30sqm) which in turn equates to a requirement of a minimum of 2490sqm of public open space.

The previously approved layout plan PO5 AA identifies 2,587m<sup>2</sup> of open space which exceeded the policy requirement of 2490sqm. The size of this area of land remains unaffected by the proposed development. The proposed development will not result in the loss of the open space land as approved for the Grove Crescent housing estate.

Whilst it appears that there were intentions to use the proposed site for a further recreational facility, no formal plans or agreements were put in place and the subject site currently remain undeveloped with no defined end use.

6.2.2 Policy 9 of the adopted Woore Neighbourhood plan details community facilities and local green space policies, it goes on to the detail the existing facilities in Woore to be protected, please see below:

#### Policy COM2 – RECREATION, PLAY AND OUTDOOR FACILITIES

The following sports fields and play and recreation areas, as shown on Figure C and Appendix 1 will be protected and, where appropriate, enhanced:

- REC1: Bowling Green Off Nantwich Road Private (private ownership)
- REC2: Tennis courts Off London Road Woore Tennis Club (owned by Woore Tennis Club)
- REC3: Cricket ground Off London Road Woore Cricket Club (owned by Woore Cricket Club)
- REC4: Outdoor adult gym Off London Road Parish Council (owned by Parish Council)
- REC5: Beech Avenue Play Area Beech Avenue Management Company (owned by a Management Company)
- REC6: Phoenix Rise Play Area Phoenix Rise Management Company (owned by Management Company)

#### POLICY COM3 – LOCAL GREEN SPACES

The following sites, as shown on Figure D and the site plans at Appendix 2, are designated as ‘Local Green Space’

- LGS1 - Woore Village Green;
- LGS2 – St Leonard’s Way Play Area;
- LGS3 – St Leonard’s Churchyard Extension

It is clear from the above details that the village of Woore has an extensive array of community recreational and outdoor facilities, all of which have been protected through the recently adopted Neighbourhood Plan.

Officers are satisfied that the proposed development will not impact on the above sites.

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

6.3.1 This application seeks planning approval for the erection of a detached two storey dwelling, with a link attached garage, along with the installation of ground mounted solar panels, in place of a redundant barn structure. The garage has been linked to the dwelling to prevent the additional scatter of detached structures on the site.

The proposed ground floor will create a

- triple bay garage,
- w/c x 2
- utility
- kitchen
- dining room
- family room
- lounge
- hallway.

The first floor will provide:



- 5 bedrooms
- 2 en-suites
- bathroom
- landing area with storage cupboards

The proposed materials will consist of the following:

- Tiles roof
- Walls to Be In red Facing Bricks / Part render
- Windows to Be High Performance Upvc,
- Doors to Be Composite Upvc.

6.3.2 The house is of an original contemporary design, with the incorporation of extensive glazing to both the ground and first floors. The roof height has been kept to a minimal and due to the plots set back nature and the lower land level, it is has been demonstrated through the submission of supporting documentation that no visual harm or overbearing impact will be caused as a result of the development, furthermore whilst the design may differ from the adjoining housing estate development the external materials and finishes will reflect the character of the surrounding development.

6.3.3 Officers acknowledge that the scale and design of the proposed dwelling has been improved considerably when compared to the previously submitted scheme and the new design raises no significant concerns.

#### **6.4 Surrounding Amenity / Highways**

6.4.1 The proposed dwelling will be set back within the large plot of land, therefore creating a great separation distance between the proposed and the existing neighbouring properties to the south / west. The roof height has been kept to a minimum and due to the plots set back nature and the lower land level, it has been demonstrated through the submission of supporting documentation that no visual harm or overbearing impact will be caused as a result of the development. Officers are satisfied that the proposed dwelling will not result in any harm to the nearby neighbouring amenity.

6.4.2 The site is located at the end of a residential cul-de-sac and continues to not raise highway concerns. The new estate road is subject to a Section 38 Agreement. The access apron crossing over the new footway, including the alteration to the kerbs will need to be in accordance with Shropshire Council's specification for a domestic access with details fully approved under a Section 184 (Highways Act 1980) licence/agreement with the Council as the local Highway Authority.

6.4.3 As mentioned previously the proposed dwelling will be set back within its own large plot and will be setback from the nearby neighbouring properties on Grove Crescent. Therefore, due to the separation distances and orientation of the proposed dwelling, officers raise no concerns with regards to the potential loss of light or loss of privacy to the existing nearby residential amenity.

#### **6.5 Drainage**

6.5.1 The proposed foul drainage is to connect to a main drainage system, following consultation with Severn Trent Water it was confirmed that the proposal will have minimal impact on the public sewerage system and therefore no objections to the proposals were raised.

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/brought into use (whichever is the sooner).

The above will be applied as a pre-commencement condition to ensure satisfactory drainage of the site and to avoid flooding.

6.5.2 No objections have been raised by the Councils Drainage Officer, however a Surface Water Drainage informative has been advised.

## **6.6 Landscaping and Ecology**

6.6.1 The proposed boundary landscaping has been detailed on the submitted site plan ref: 5611-017, the immediate site boundaries will consist of post and rail timber fencing at a height of 1.2 metres. The boundaries either side of the access route leading to the site will also consist of a 1.2 metre-high post and rail timber fencing, replacing the 1.8 metre high closed boarded fencing which is currently in place. The applicant has the adjoining land owner's permission in order to change the fencing along the access route. The access route will consist of loose stones / chipping leading up to the sites private gated entrance. Inside the fencing to the south an array of trees, shrubs and hedging is also proposed to ensure the site and the adjoining land is enhanced to what is there currently and will undoubtedly be a lot more visually pleasing in comparison.

Within the site boundaries the surrounding amenity will consist of lawn, patio and decking areas, the applicant will ensure the landscaping complies with the permitted development order where applicable. The scheme includes a solar PV array in the grounds and the applicant intends to use both proven technology and a fabric first approach to achieve a low carbon, environmentally sensitive development and thereafter functioning family house.

6.6.2 Officers are satisfied that a sufficient level of landscaping has been provided in order to enhance the site through its development. Additionally, the replacement of the 1.8 metre high closed boarded fencing is welcomed, as officers feel this will make the open space area inviting to the residents of the adjoining estate. The details of the type of trees and hedging to be used have not been provided, as the site adjoins the open space amenity area associated with the nearby housing estate, it is vital that native species hedging is used to provide additional ecology and landscape value to the sites landscaping. The landscaping scheme will be controlled by condition ensuring the landscaping is implemented prior to the occupation of the site.

6.6.3 Following consultation with the Ecology officer conditions and informatives are recommended for inclusion on the decision notice, to ensure the protection of wildlife and to provide ecological enhancements under NPPF, MD12 and CS17

## **7.0 CONCLUSION**

7.1 The proposed site sits within the development boundary as identified within the adopted Woore Neighbourhood Plan, and officers are satisfied that the development will enhance the site and its surroundings, whilst ensuring no harm is caused to the neighbouring amenity, wildlife corridor and overall landscape. Furthermore, the site can provide a safe means of access and substantial on-site parking provision. Taking into account the above considerations the proposed development is deemed acceptable as it complies with all of

the relevant adopted local and national planning policies, such as Shropshire Core Strategy policies CS06, CS17, CS18, SAMDev policies MD01, MD02, MD12 along with the aspirations of the Woore Neighbourhood Plan and the National Planning Policy Framework.

7.2 In arriving at this decision Shropshire Council has used its best endeavours to work with the applicant in a positive and proactive manner to secure an appropriate outcome as required in the National Planning Policy Framework, paragraph 38.

## **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:

CS4 - Community Hubs and Community Clusters  
CS6 - Sustainable Design and Development Principles  
CS17 - Environmental Networks  
CS18 - Sustainable Water Management  
MD1 - Scale and Distribution of Development  
MD2 - Sustainable Design  
MD12 - Natural Environment  
National Planning Policy Framework  
Settlement: S11 - Market Drayton  
WNP - Woore Neighbourhood Plan  
RELEVANT PLANNING HISTORY:

12/04496/OUT Outline application (access & layout) for the erection of 21 dwellings, formation of vehicular access, provision of recreational facility including parking and clubhouse and development of wildlife corridor GRANT 12th August 2014

16/01371/REM Reserved matters application (appearance, landscaping and scale) pursuant to outline application ref 12/04496/OUT for the erection of 21 dwellings, formation of vehicular access, provision of recreational facility including parking and clubhouse and development of wildlife corridor GRANT 24th November 2016

16/01372/VAR Variation of Condition no. 2 (approved drawings) attached to Outline application ref 12/04496/OUT to allow for an amended site layout plan GRANT 24th November 2016

16/01425/DIS Discharge of Condition 4 (Means of enclosure etc) and 5 (Mitigation details) of Planning permission 12/04496/OUT for the erection of 21 dwellings, formation of vehicular access, provision of recreational facility including parking and clubhouse and development of wildlife corridor DISAPP 23rd November 2016

17/02904/DIS Discharge of Condition 2 (Roof and external materials) relating to Planning Permission 16/01371/REM for the erection of 21 dwellings, formation of vehicular access, provision of recreational facility including parking and clubhouse and development of wildlife corridor DISAPP 11th July 2017

17/03383/DIS Discharge of Condition 6 (EPS licence) relating to Planning Permission

12/004496/OUT for the erection of 21 dwellings, formation of vehicular access, provision of recreational facility including parking and clubhouse and development of wildlife corridor  
DISAPP 24th July 2017

18/02585/FUL Erection of one dwelling with detached triple garage; installation of ground mounted solar panel array; formation of vehicular access WDN 8th October 2018

19/03631/FUL Erection of one dwelling and detached 3-bay two storey garage WDN 28th October 2019

20/02976/FUL Erection of one self-build 5 bedroom detached dwelling house, with a link attached garage / office building, installation of ground mounted solar panel array; and the formation of vehicular access; associated landscaping works 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 Roy Aldcroft
Appendices APPENDIX 1 - Conditions

## APPENDIX 1

### Conditions

#### STANDARD CONDITIONS

1. The development hereby permitted shall be begun before the expiration of three years from the date of this permission.  
Reason: To comply with Section 91(1) of the Town and Country Planning Act, 1990 (As amended).
2. The development shall be carried out strictly in accordance with the approved plans and drawings  
Reason: For the avoidance of doubt and to ensure that the development is carried out in accordance with the approved plans and details.
3. Prior to the above ground works commencing samples and/or details of the roofing materials and the materials to be used in the construction of the external walls shall be submitted to and approved in writing by the Local Planning Authority. The development shall be carried out in complete accordance with the approved details.  
Reason: To ensure that the external appearance of the development is satisfactory.
4. Prior to the erection of any external lighting on the site, a lighting plan shall be submitted to and approved in writing by the Local Planning Authority. The lighting plan shall demonstrate that the proposed lighting will not impact upon ecological networks and/or sensitive features, e.g. bat and bird boxes (required under a separate planning condition). 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. The development shall be carried out strictly in accordance with the approved details and thereafter retained for the lifetime of the development.  
Reason: To minimise disturbance to bats, which are European Protected Species.

#### CONDITIONS THAT REQUIRE APPROVAL BEFORE THE DEVELOPMENT COMMENCES

5. 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/brought into use (whichever is the sooner).  
Reason: The condition is a pre-commencement condition to ensure satisfactory drainage of the site and to avoid flooding.
6. Traffic Management Plan (to include Community Communication Protocol)  
No development shall take place, including any works of demolition, until a Traffic Management Plan for construction traffic has been submitted to, and approved in writing by, the local planning authority, to include a community communication protocol. The approved Statement shall be adhered to throughout the construction period.  
Reason: To avoid congestion in the surrounding area and to protect the amenities of the area.

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

7. The access, parking and turning areas shall be satisfactorily completed and laid out in accordance with the Site Plan Drawing No. 5611-017 Rev G prior to the dwelling being occupied. The approved parking and turning areas shall thereafter be maintained at all times for that purpose.  
Reason: To ensure the formation and construction of a satisfactory access and parking facilities in the interests of highway safety
8. The access apron shall be constructed in accordance with the Shropshire Council's specification currently in force for an access and shall be fully implemented prior to the dwelling being occupied.  
Reason: To ensure the formation and construction of a satisfactory access in the interests of highway safety.
9. Prior to first occupation / use of the building, 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 2 external woodcrete bat boxes or integrated bat bricks, suitable for nursery or summer roosting for small crevice dwelling bat species.
  - A minimum of 2 artificial nests, of either integrated brick design or external box design, suitable for 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.
10. All hard and soft landscape works shall be carried out in accordance with the approved block plan ref: 5611 -017. Full details of the type of Trees and Hedging to be used must be submitted to and approved in writing by the local authority. The works shall be carried out prior to the occupation / use of any part of the development hereby approved. Any trees or plants that, within a period of five years after planting, are removed, die or become, in the opinion of the Local Planning Authority, seriously damaged or defective, shall be replaced with others of species, size and number as originally approved, by the end of the first available planting season.  
Reason: To ensure the provision, establishment and maintenance of a reasonable standard of landscape in accordance with the approved designs.

**CONDITIONS THAT ARE RELEVANT FOR THE LIFETIME OF THE DEVELOPMENT**

11. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 2015 (or any order revoking and re-enacting that Order with or without modification), no development relating to schedule 2 part 1 class; B and C shall be erected, constructed or carried out.  
Reason: To maintain the scale, appearance and character of the development and to safeguard residential and visual amenities.

## **Informatives**

### Works on, within or abutting the public highway

This planning permission does not authorise the applicant to:

- construct any means of access over the publicly maintained highway (footway or verge) or
- carry out any works within the publicly maintained highway, or
- authorise the laying of private apparatus within the confines of the public highway including any a new utility connection, or
- undertaking the disturbance of ground or structures supporting or abutting the publicly maintained highway. The applicant should in the first instance contact Shropshire Councils Street works team. This link provides further details

<https://www.shropshire.gov.uk/roads-and-highways/road-network-management/application-forms-and-charges/>

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.

### Mud on highway

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

### No drainage to discharge to highway

Drainage arrangements shall be provided to ensure that surface water from the driveway and/or vehicular turning area does not discharge onto the public highway. No drainage or effluent from the proposed development shall be allowed to discharge into any highway drain or over any part of the public highway.

### Waste Collection

The applicant's attention is drawn to the need to ensure that appropriate facilities are provided, for the storage and collection of household waste, (i.e. wheelie bins & recycling boxes).

Specific consideration must be given to kerbside collection points, to ensure that all visibility splays, accesses, junctions, pedestrian crossings and all trafficked areas of highway (i.e. footways, cycle ways & carriageways) are kept clear of any obstruction or impediment, at all times, in the interests of public and highway safety.

<https://shropshire.gov.uk/media/2241/supplementary-planning-guidance-domestic-waste-storage-and-collection.pdf>

### Soakaway Drainage

- The use of soakaways should be investigated in the first instance for surface water disposal. Percolation tests and the sizing of the soakaways should be designed in accordance with BRE Digest 365. Full details, calculations, dimensions and location plan of the percolation tests and the proposed soakaways should be submitted for approval.
- Surface water should pass through a silt trap or catchpit prior to entering the soakaway to reduce sediment build up within the soakaway.
- Should soakaways are not feasible, drainage calculations should limit the discharge rate from the site equivalent to 5.0 l/s runoff rate should be submitted for approval. The



attenuation drainage system should be designed so that storm events of up to 1 in 100 year + 35% for climate change will not cause flooding of any property either within the proposed development or any other in the vicinity.

- Urban creep is the conversion of permeable surfaces to impermeable over time e.g. surfacing of front gardens to provide additional parking spaces, extensions to existing buildings, creation of large patio areas. The appropriate allowance for urban creep must be included in the design of the drainage system over the lifetime of the proposed development. The allowances set out below must be applied to the impermeable area within the property curtilage:
  - Residential Dwellings per hectare Change allowance % of impermeable area Less than
    - 25 10
    - 30 8
    - 35 6
    - 45 4
    - More than 50 2
    - Flats & apartments 0
- If non permeable surfacing is used on the new access, driveway and parking area or the new access slopes toward the highway, the applicant should submit for approval a drainage system to ensure that no surface water runoff from the new access run onto the highway.

#### Foul Water Drainage

The proposed method of foul water sewage disposal should be identified and submitted for approval, along with details of any agreements with the local water authority and the foul water drainage system should comply with the Building Regulations H2.

#### Ecology Informatives:

##### 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 (or other suitable nesting habitat) should be carried out outside of the bird nesting season which runs from March to August inclusive.
- If it is necessary for work to commence in the nesting season then a pre-commencement inspection of the vegetation and buildings for active bird nests should be carried out. If vegetation or buildings cannot be clearly seen to be clear of nests then an appropriately qualified and experienced ecologist should be called in to carry out the check. Only if there are no active nests present should work be allowed to commence.
- If during construction birds gain access to the building 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).

Please contact me, or one of the other Ecology team members, if you have any queries on the above: Sophie Milburn, Ecology Officer, [sophie.milburn@shropshire.gov.uk](mailto:sophie.milburn@shropshire.gov.uk)

#### NPPF paragraph 38

In arriving at this decision Shropshire Council has used its best endeavours to work with the applicant in a positive and proactive manner to secure an appropriate outcome as required in the National Planning Policy Framework, paragraph 38.

Location: Proposed Dwelling At 28 Grove Crescent, Woore, CW3 9SX, ,



Committee and Date  
Northern Planning Committee  
10<sup>th</sup> November 2020

Item  
**7**  
Public

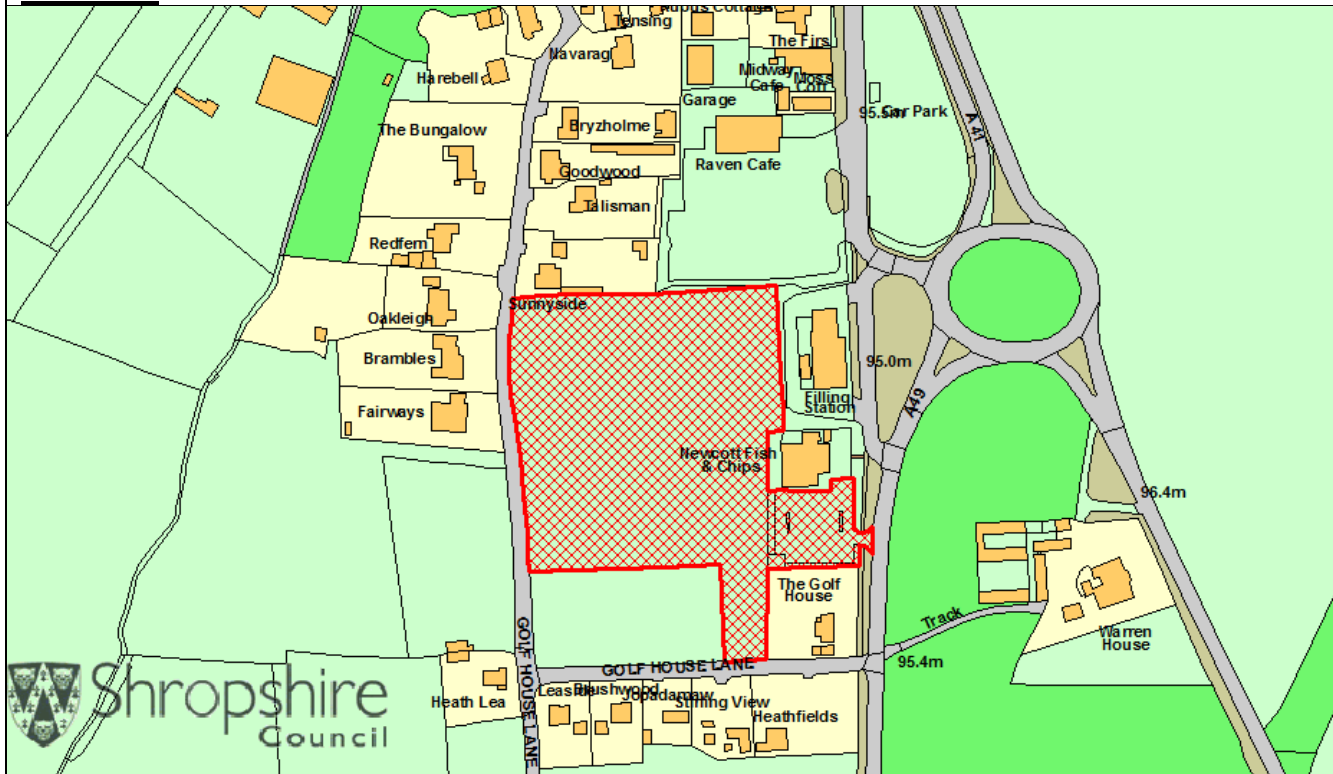
## Development Management Report

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

### Summary of Application

<b><u>Application Number:</u></b> 19/02203/FUL	<b><u>Parish:</u></b> Whitchurch Rural
<b><u>Proposal:</u></b> Erection of 48 dwelling houses (23 open market and 25 affordable) including new vehicular access, public open space and associated infrastructure (amended description)	
<b><u>Site Address:</u></b> Land Adjacent to Golf House Lane Prees Heath Shropshire	
<b><u>Applicant:</u></b> Gleeson Homes	
<b><u>Case Officer:</u></b> Richard Denison	<b><u>Email :</u></b> <a href="mailto:planning.northern@shropshire.gov.uk">planning.northern@shropshire.gov.uk</a>

**Grid Ref:** 355563 - 337919



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**Recommendation:- Delegate to the Planning Services Manager for approval subject to the completion of a satisfactory Section 106 obligation with no objection being raised following the consultation with Natural England on the Habitats Regulation Assessment and the conditions as set out in appendix one with any modifications to these conditions as considered necessary by the Planning Services Manager.**

## REPORT

### 1.0 THE PROPOSAL

1.1 This application relates to the erection of 48 dwellings providing a mix of 23 open market dwellings (17 x 3-bedroom and 6 x 4-bedroom) and 25 affordable dwellings (12 x 2-bedroom and 13 x 3-bedroom) within an enclosed paddock in the centre of Prees Heath by Gleeson Homes. The development will include the provision of a new vehicular and pedestrian access which will serve the proposed residential development and the existing adjoining restaurant and convenience store. The proposed layout also includes a reconfiguration and extension of the existing car park serving the restaurant to provide 36 parking spaces and a designated service yard. An area of communal open space will be provided with a play area and will serve the residential development and wider community. A foot path link will provide pedestrian access onto Golf House Lane along the western boundary of the site to enable links within the settlement for access to local services and the local footpath network. Additional tree landscaping and native boundary hedgerows will be provided throughout the site to reflect this rural location and increase biodiversity.

### 2.0 SITE LOCATION/DESCRIPTION

2.1 The site is located in the settlement of Prees Heath at the junction of the A41 and A49 approximately 2.5km south of Whitchurch. The site covers an area of 1.72 hectares and comprises of an open field and is largely rectangular in shape. A protrusion from the sites southern boundary provides a small frontage onto Golf House Lane, whilst the proposed access will be through the parking area of Newcott Fish & Chip Restaurant. The site is relatively flat and has previously been in use as a paddock but has now been vacant for some time.

2.2 The northern boundary consists of a bungalow facing Golf House Lane and lorry park, whilst the eastern boundary is open to a petrol filling station and the Prees Heath Fish & Chip restaurant and convenience store accessed from the A49 and service road. A residential property is located towards the south eastern corner, whilst Golf House Lane is located to the south and separated by a small paddock not in the application site. Golf House Lane extends along the entire western boundary and has three properties facing towards the site to the north west.

2.3 Prees Heath has a number of services including a Fish and Chip Restaurant; Select and Save convenience store; a petrol filling station with convenience provision; Raven and Midway Truck stop Cafés; truck parking areas; Raven Public House and Hotel; and the Aston Barclay car auction. The bus route 511 also passes through the

village with stops on Tilstock Lane, providing regular links to Tilstock, Whitchurch and Shrewsbury.

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

- 3.1 The Parish Council have submitted a view contrary to the officer's recommendation based on material planning reasons which cannot reasonably be overcome by negotiation or the imposition of planning conditions. The Principal Planning Officer in consultation with the Committee Chair and Vice agrees that the Parish Council has raised material planning issues and that the application should be determined by committee.

### **4.0 COMMUNITY REPRESENTATIONS**

#### **4.1 Consultee Comments**

- 4.1.1 **Shropshire Council, Highways** - Having viewed all the submitted information accompanying the planning submission it is considered that the residential development proposed, is unlikely to have any material detrimental effect on the adjacent principal road network. As such the highway authority have no objection to the development of the site, served via the access arrangements shown on the Planning Layout drawing No. MJG/PL-108 Rev B. It is recommended however that the proposed alterations and delivery of the access road to serve the restaurant car parking should be the first phase of construction, to ensure that the development traffic is not adversely impeded by the restaurant patrons. On a further note, it is acknowledged that the existing footway facility along the A49 frontage is currently not ideal and would benefit improvement to ensure access for vulnerable users. However, this footway is isolated from any adjoining facilities, and such improvement would serve little local sustainable travel benefit. Therefore, the developer's proposal to retain the facility as existing, is considered acceptable. I therefore raise no objection to the granting of consent subject to the following highway conditions being imposed upon any consent granted.

- 4.1.2 **Shropshire Council, Trees & Woodland Amenity Protection Officer** - Having read the submitted Arboricultural Implication Assessment and the Landscape Strategy Plan I have the following comments: A number of mature 'B' category trees are to be lost for this proposal and mitigation planting is required.

Shropshire Council policy MD2 (Sustainable Design) requires new development to provide 30m<sup>2</sup> open space per person which equates to sufficient space to plant one large, long-lived tree (such as oak, lime or sweet chestnut for example) for every 24 bed spaces. Large trees such as these should be planted on communal space rather than enclosed within private gardens. The current landscape plan is indicative and lacks details.

The proposed 'smaller scale ornamental trees' are shown as *Prunus Avium Plena* and *Quercus Petraea* neither of which are "smaller" specimens and not are sustainable planted close to properties or in small gardens. These trees should be

planted in the POS and where the proposed 'internal street trees' are not close to property in order to achieve long term sustainability. More suitable species for the front gardens should be selected for example from Malus, Sorbus, Betula species to create an attractive palette of colour and form.

Landscaping schemes should meet the minimum recommendations set out in BS 8545: 2014 and include the location, number, species and size of planting stock, details of the planting method or planting pit, measures for tree protection and support, and early years (one to three) post-planting maintenance.

- 4.1.3 **Shropshire Council, Housing Enabling Officer** - Confirmation is required from the applicant confirming the selling prices for all sizes / types of properties on the site and confirm that these are based on local wages and not just the ASHE. Could we also see the market evidence of the full open market sales values for comparison. The applicant has stated in earlier correspondence that other local authorities have accepted this type of low cost home ownership as an affordable tenure and it would be helpful if we could see evidence of this and how they aligned the proposals with local policies.
- 4.1.4 **Shropshire Council, Planning Ecologist (13/09/20)** - This application is in close proximity to Prees Heath Site of Special Scientific Interest and lies within an Impact Risk Zone, which triggers consultation with Natural England. The comments of Natural England must be received and taken into account before a planning decision can legally be made. The Ecological Impact Assessment has been considered and safeguarding conditions regarding landscaping, bat and bird boxes and lighting plan is proposed, together with nesting birds and general site informative.
- 4.1.4 **Shropshire Council, Planning Ecologist (28/10/20)** - This application is in close proximity to Prees Heath Site of Special Scientific Interest and lies within an Impact Risk Zone. The applicant has responded to concerns expressed by Natural England. The application site lies within the Zone of Influence for recreational impacts for Brown Moss SAC and Ramsar site. A Habitats Regulations Assessment has been attached to this response. Please note that the findings of the HRA are only valid if the mitigating measures are legally secured, for the lifetime of the development. If this is not possible, I recommend refusal as there could be an adverse effect on the integrity of Brown Moss. Natural England must be formally consulted on the findings of the HRA by contacting [consultations@naturalengland.org.uk](mailto:consultations@naturalengland.org.uk) in the first instance. The comments of Natural England must be taken into account before a planning decision can legally be made. Conditions and informatives have been recommended to ensure the protection of wildlife and to provide ecological enhancements under NPPF, MD12 and CS17.

#### Indirect effects on Prees Heath SSSI and Brown Moss SAC

The proposed development lies approximately 67 metres to the north west of Prees Heath SSSI: a 21.68 ha nature reserve designated for its remnant lowland heath which is especially important for its population of the nationally scarce silver-studded

blue butterfly. The SSSI forms part of the larger Prees Heath Local Nature Reserve (LNR) which totals 60 ha in area. The SSSI is currently in an unfavourable condition with 84.41% of its area considered to be 'Unfavourable – Recovering' and 15.59% considered to be 'Unfavourable – Declining. Current issues experienced by the SSSI relate to use of the site for recreation (presumably walkers), and in particular dog fouling. Natural England, in their consultation response dated 19th July 2019, expressed concern over indirect impacts on the SSSI as a result of the development (particularly through dog fouling) and suggested options for mitigating the potential recreational impacts may include improved links to the wider countryside to the west of the development site or contributions to the management of the Prees Common nature reserve.

According to the letter from SLR to NE, of the 53 'households proposed, around 26% of those are likely to own a dog<sup>1</sup> which equates to 14 additional dogs in the neighbourhood. Of these additional 14 animals, a lesser number would be walked across the SSSI/LNR, with some owners choosing not to cross the busy A49 road, instead preferring other routes. Of those dog owners who do chose to access the Reserve, a smaller number still will not pick up after their dog.' Dog faeces can cause an influx of nutrients (nitrogen and phosphorus) to the soils which can locally increase soil fertility levels. If faeces are deposited on or near plants (such as heathers) requiring low soil fertility, it can detrimentally alter the growing conditions for plants and ultimately impact the populations of butterflies and other organisms which rely on them.

SLR go on to say that 'Given the small increase in dog owners accessing the Reserve (estimated to be less than 14), any impact is likely to be very low with any slight increases in nutrient levels likely to be undetectable in the growth rates of plant communities present. The impact on the blue studded butterfly is also therefore likely to be undetectable... There are no other known proposed developments within the vicinity of the Reserve which could have the potential to cumulatively effect its condition.'

#### Mitigation proposed to counter impacts from dog walkers on Prees Heath SSSI

The agent's ecologist has been in contact Mr John Davies, Head of Reserves for the Butterfly Conservation Trust (managers of the SSSI and wider common) to find out how the development can assist them in completing projects set out in their draft management plan. Mr Davies has indicated by email that a contribution of £3,500 would support the draft management plan for the site, addressing indirect impacts through education for visitors and controlling/directing them to less sensitive areas (where the benches will be placed) and enhancement of bird nesting facilities. It is suggested the money would fund:

- Upgrading of two reserve information panels
- Reprinting with minor amendments the reserve leaflet highlighting new access points
- Provision of an additional reserve leaflet box

- Provision of two green oak backless benches on the reserve
- Provision of two raptor bird boxes

The developer has included a dog waste bin on the public open space on site, which has now been increased in size to 2000 m<sup>2</sup>, with the number of homes reduced to 48. This is still below the area of open space required under SAMDev Plan policy MD2. A commuted sum for open space provision of £147,927 has been proposed to cover the shortfall in public open space. A dog waste bin has also been included adjacent to the footpath link heading west from the site, to encourage dog walkers to use the footpaths in this area too (away from the SSSI). In addition, they are prepared to include leaflets educating people about their impacts on the SSSI and things to do to minimise this in the home owners' packs and that a condition to this effect should be attached to any planning permission.

The following items must be secured by condition or s106 agreement for the lifetime of the development.

- Provision of two dog bins one adjacent to the footpath link in the west of the site and the other in the POS, close to the entrance to the site in the east.
- A means of securing maintenance of the dog bins, or replacement as necessary, for the lifetime of the development.
- A means of securing the emptying of the dog bins at a suitable frequency, for the lifetime of the development.
- Transfer of the payment to the Butterfly Conservation Trust to manage indirect effects.
- Provision of leaflets educating people about their impacts on the SSSI and things to do to minimise this in the home owners' packs.

#### Brown Moss SAC, Ramsar Site and SSSI

Brown Moss is an internationally designated site c. 1.3km to the north as the crow flies. Increased recreational pressure has been identified as a damaging factor in the Local Plan Habitats Regulation Assessment (HRA). Any development which may affect an international site, either alone or in-combination with other plans or projects must be subjected to a project level HRA by the LPA. An HRA has been attached to this consultee response. Under policies MD12 and MD2 of the SAMDev Plan, a possible mitigation measure for removing impacts via dog-walking is to provide more than the required open space on the development site. The open space on the development site is less than 30m<sup>2</sup> per person and it is not clear if the proposed commuted sum for open space provision this will be used within the Zone of Influence of Brown Moss. However, in view of the close proximity of the Prees Heath SSSI and nature reserve, and the mitigation measures detailed above, it is unlikely that significant numbers of visits will be made to Brown Moss as a result of this development (see further details in the HRA).

#### Further consultations



Natural England have been re-consulted on this application following mitigation proposals being put forward. The local authority have not received a response. Natural England should be re-consulted on the council's HRA with a consultation period of 21 days. The LPA has already been informed that if NE do not respond within 21 days they do not have additional comments.

- 4.1.5 **Shropshire Council, Flood & Water Management Team** - The proposed surface water drainage strategy in the FRA is acceptable in principle. However, drainage details, calculations and plan as per Informative Notes below should be submitted for approval prior to development commencing.

The proposed surface water soakaways should be designed in accordance with BRE Digest 365 to cater for a 1 in 100 year return storm event plus an allowance of 35% for climate change. Full details, calculations, dimensions and location of the percolation tests and the proposed soakaways should be submitted for approval. Surface water should pass through a silt trap or catchpit prior to entering the soakaway to reduce sediment build up within the soakaway.

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

Highway Gully Spacing calculations should be submitted for approval. Where a highway is to be adopted and gullies will be the only means of removing surface water from the highway, footpaths and paved areas falling towards the carriageway, spacing calculations will be based on a storm intensity of 50mm/hr with flow width of 0.75m, and be in accordance with DMRB CD526 Spacing of Road Gullies (formerly HA102). Gully spacing calculations must also be checked in vulnerable areas of the development for 1% AEP plus climate change 15 minute storm events. Storm water flows must be managed or attenuated on site, ensuring that terminal gullies remain 95% efficient with an increased flow width. The provision of a finished road level contoured plan showing the proposed management of any exceedance flows should be provided.

Vulnerable areas of the development are classed by Shropshire Council as areas where exceedance flows are likely to result in the flooding of property or contribute to flooding outside of the development site. For example, vulnerable areas may occur where a sag curve in the carriageway vertical alignment coincides with lower property threshold levels or where ground within the development slopes beyond the development boundary.

Shropshire Council's 'Surface Water Management: Interim Guidance for Developers, paragraphs 7.10 to 7.12' (Local Standard D of the SUDS Handbook) requires that exceedance flows for events up to and including the 1% AEP plus CC should not

result in the surface water flooding of more vulnerable areas (as defined above) within the development site or contribute to surface water flooding of any area outside of the development site.

The proposed method of foul water sewage disposal should be identified and submitted for approval, along with details of any agreements with the local water authority and the foul water drainage system should comply with the Building Regulations H2.

- 4.1.6 **Shropshire Council, Access Mapping & Enforcement Team Leader** - A formal response has been received raising no comments on the application.
- 4.1.7 **Shropshire Council, Historic Environment Team (Conservation)** - The site is currently undeveloped land adjacent to commercial development consisting of fast food retail, petrol filling station, and truck stop to the east and north, to the south and north west residential properties and immediately west agricultural land served off an unmade track. The majority of properties are single storey apart from the Warren House farmstead which is no longer in agricultural use. Warren House is an identified farmstead (Historic Farmsteads Characterisation Project, 2008 to 2010) and was described at that time as: "Regular Courtyard E-Plan. Additional Plan Details: Additional detached elements to main plan. Date Evidence from Farmhouse: 19th Century. Date Evidence from Working Building(s): None. Position of Farmhouse: Farmhouse set away from yard. Farmstead Location: Isolated. Survival: Partial Loss - less than 50% change. Confidence: High. Other Notes: Some Evidence for Conversion." This farmstead is considered a heritage asset as defined in Annex 2 of the NPPF but the impact of the development is considered to be neutral due to the already busy and intensive use of the land and roads around it. The overall site layout is particularly urban in form in this rural location where the open space to serve the development is immediately adjacent to the very busy commercial services area and would appear to be in a secure area of the development, however, this is not something for HE Team to comment on in detail.
- 4.1.8 **Shropshire Council, Recreation Team** - Under Shropshire Council's SAMDev Plan and MD2 policy requirement, adopted 17<sup>th</sup> December 2015, all development will provide adequate open space, set at a minimum standard of 30sqm per person (equivalent to 3ha per 1,000 population). For residential developments, the number of future occupiers will be based on a standard of one person per bedroom. 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.

The types of open space provided need to be relevant to the development and its locality and should take guidance from the Place Plans. The ongoing needs for access to manage open space must be provided for and arrangements must be in place to ensure that the open space will be maintained in perpetuity whether by the

occupiers, a private company, a community organisation, the local town or parish council, or by Shropshire Council.

Based on the current design guidance the development will deliver 146 bedrooms and therefore should provide a minimum 4,380sqm of usable public open space as part of the site design. Currently the site design plan identifies only 1200sqm of POS provision and therefore it does not meet the MD2 policy requirement. The site must be redesigned and altered to meet the policy requirements. At present the POS is on the edge of the site, behind the restaurant, we would prefer for it to be in a more centralised location so creating a 'village green' effect, lessening the possibility of anti-social behaviour.

The inclusion of public open space is critical to the continuing health and wellbeing of the local residents. Public open space meets all the requirements of Public Health to provide space and facilities for adults and children to be both active physically and mentally and to enable residents to meet as part of the community.

- 4.1.9 **Shropshire Council, Regulatory Services (04/07/19)** - The noise report provided indicates that it is a noisy environment that will require mitigation measures in order to achieve acceptable noise levels as defined by BS8233:2014. The report recommends some mitigation measures that will enable the recommended noise levels to be achieved. A detailed mitigation scheme will have to be designed and implemented to ensure that these standards are met. Therefore, a safeguarding condition is proposed.

A Ground Conditions Assessment report by Wardell Armstrong has been submitted which includes a Phase 1 Desk Study Report. No contaminants of concern above the relevant screen values have been identified that requires remediation. Wardell Armstrong have undertaken a ground gas risk assessment based on two rounds of gas monitoring which is short of the industry best practice which suggests that gas protection is not required. They advise in the absence of any identified ground gas source or deposits of putrescible material during the site investigation they consider that it is unlikely that ground gas would present a significant constraint to the proposed development. However, the recommendation is that supplementary gas monitoring is undertaken having regard to NHBC and CIRIA Guidance due to the sensitivity of the development to prove this statement. A safeguarding condition is proposed.

- 4.1.9 **Shropshire Council, Regulatory Services (23/10/20)** - Wardell Armstrong have reported on "Supplementary Ground Gas Monitoring & Risk Assessment for Golf House Lane, Prees Heath, North Shropshire; Ref. CS/SL/ST16544/0004, dated 10th January 2019". Having regard to the dates of the additional gas monitoring (see below), I am assuming that the date of this letter is incorrect and should be dated 10th January 2020. Further monitoring was undertaken between 29<sup>th</sup> October 2019 and 8<sup>th</sup> January 2020, on six occasions at all five gas monitoring installations that were constructed at the site in 2018. The further monitoring period encountered similar ground gas conditions to that of 2018. The GSV calculated for carbon dioxide,

corresponds with an NHBC/CIRIA classification of “Green”. This is indicative of a low gas regime and would not require the implementation of any specific protective measures for new residential developments. Accordingly, having regard to comments previously made by Regulatory Services on 4<sup>th</sup> July 2019, Regulatory Services can advise that no condition is required in respect of gas protection based on the results of the supplementary gas monitoring.

- 4.1.10 **Shropshire Council, Waste Management Officer** - It is vital new homes have adequate storage space to contain wastes for a fortnightly collection (including separate storage space for compostable and source segregated recyclable material). Also crucial is that they have regard for the large vehicles utilised for collecting waste and that the highway specification is suitable to facilitate the safe and efficient collection of waste. Any access roads, bridges or ramps need to be capable of supporting our larger vehicles which have a gross weight (i.e. vehicle plus load) of 32 tonnes and minimum single axle loading of 11 tonnes.

I would recommend that the developer look at the guidance that waste management have produced, which gives examples of best practice. This can be viewed here:

<https://new.shropshire.gov.uk/media/7126/shropshire-refuse-and-recycling-planning-guidance-july-2017-002.pdf>

We would prefer to see a vehicle tracking of the vehicle manoeuvring the road to ensure that that the vehicle can access and turn on the estate. Details of the vehicle size and turning circles are in the document linked above.

- 4.2.11 **Shropshire Council, Learning and Skills Team** - Reports that both the local primary and secondary schools are forecast, with housing developments, to be oversubscribed by the end of the current plan period. With future housing developments in the area it is forecast there will be additional strain on capacity. It is therefore essential that the developers of this and any new housing in this area contribute towards the consequential cost of any additional places or facilities considered necessary to meet pupil requirements in the area. In the case of this development it is recommended that any contributions required towards education provision are secured via CIL funding.
- 4.2.12 **West Mercia Police** - As Design Out Crime Officer for West Mercia Police I do not wish to formally object to the proposal at this time. However there are opportunities to design out crime, reduce the fear of crime and to promote community safety.

I am very pleased that the planning application includes a document named Maximising Security. Having read this document I am of the opinion that this development could be built to achieve Secured By Design (SBD) accreditation. It is noted that both CPTED (Crime Prevention Through Environmental Design) and Secured By Design are mentioned in the conclusion to this document. The standards mentioned for door security in the document are those that are required to achieve SBD accreditation. There is an opportunity here for the developer to fully consult with

me to achieve accreditation and to make this development Secured By Design. I am more than willing to be consulted at any time and I would ask that perhaps Secured By Design should be a planning condition.

As detailed below the track record of achieving Secured By Design goes a long way to ensuring as far as possible that this development will remain relatively crime free. Consultation with myself will ensure that the developer will have access to an experienced Design Out Crime Officer. Therefore, should this proposal gain planning approval the below advice should be considered by the developer.

The applicant should aim to achieve the Secured By Design (SBD) award status for this development. SBD is a nationally recognised award aimed at achieving a minimum set of standards in crime prevention for the built environment. The scheme has a proven track record in crime prevention and reduction. The opportunity for burglary offences to occur can be reduced by up to 87% if Secured By Design is achieved. There is a clear opportunity within this development to achieve the Secured by Design award. By doing so it can also address the requirements of the new Approved Document Q.

Approved Document Q applies to all new dwellings, including those resulting from a change in use of an existing building, such as commercial premises, warehouse and barns undergoing conversions into dwellings. It also applies to builds within Conservation Areas. Approved Document Q creates security requirements in relation to doors at the entrance to a building, including garage doors where there is a connecting inner door leading directly into the dwelling. Also included are ground floor, basement and other easily accessible windows; and any easily accessible roof-lights. The requirement is that the product must be shown to have been manufactured to a design that has been tested to an acceptable security standard.

The principles and standards of the Secured By Design initiative gives excellent guidance on crime prevention through environmental design and also on the physical measures for security. Details and an application form can be found at [www.securedbydesign.com](http://www.securedbydesign.com)

4.2.13 **Natural England (19/07/19)** - Further information required to determine impacts on designated sites. As submitted, the application could have potential significant effects on Prees Heath Site of Special Scientific Interest (SSSI) Natural England requires further information in order to determine the significance of these impacts and the scope for mitigation. The following information is required:

- Consideration of indirect effects from the proposal on the SSSI.
- A strategy for mitigating any identified impacts.

Without this information, Natural England may need to object to the proposal. Please re-consult Natural England once this information has been obtained. Natural England's further advice on designated sites and advice on other issues is set out below.

The proposed development is in close proximity to Prees Heath SSSI. Prees Heath is a remnant of the formerly extensive lowland heaths of north Shropshire. The site is especially important for its population of the nationally scarce Silver-studded blue butterfly. The Prees Heath population is the last surviving Midlands colony of this butterfly, which was formerly widespread throughout the Midlands and north-west England. This colony is also of interest for its individuals that appear physically different from those at other sites and may therefore represent a distinct genetic race. The site also supports an interesting mix of acid grassland, neutral grassland and scrub habitats.

Prees Heath SSSI and the wider nature reserve associated with it are currently experiencing issues related to recreation in particular dog fouling. This proposal will add a number of new residents to the vicinity of the site. The proposed site layout only indicates a relatively small area of open space provision within the development and as such it is likely that Prees Heath will be used as an alternative recreational space which may contribute to the issues at the site.

We note that an Ecological Impact Assessment has been submitted however it only considers the direct impacts of the proposal on the SSSI rather than considering the indirect impacts which may occur as outlined above. Options for mitigating the potential recreational impacts may include improved links to the wider countryside to the west of the development site or contributions to the management of the Prees Common nature reserve.

Natural England agrees with the conclusion that direct impacts on the designated site are unlikely.

Please note that if your authority is minded to grant planning permission contrary to the advice in this letter, you are required under Section 28I (6) of the Wildlife and Countryside Act 1981 (as amended) to notify Natural England of the permission, the terms on which it is proposed to grant it and how, if at all, your authority has taken account of Natural England's advice. You must also allow a further period of 21 days before the operation can commence.

4.2.14 **Environment Agency** - A formal consultation was sent on the 5/6/19 and 23/7/19, although no formal response has been received.

4.2.15 **Severn Trent Water** - No objections to the proposals subject to the inclusion of the following condition:

- The development hereby permitted should not commence until drainage plans for the disposal of foul and surface water flows have been submitted to and approved by the Local Planning Authority, and
- The scheme shall be implemented in accordance with the approved details before the development is first brought into use. This is to ensure that the

development is provided with a satisfactory means of drainage as well as to prevent or to avoid exacerbating any flooding issues and to minimise the risk of pollution.

Severn Trent Water advise that there is a public sewer located within this site. Public sewers have statutory protection and may not be built close to, directly over or be diverted without consent. You are advised to contact Severn Trent Water to discuss the proposals. Severn Trent will seek to assist in obtaining a solution which protects both the public sewer and the building. Please note, when submitting a Building Regulations application, the building control officer is required to check the sewer maps supplied by Severn Trent and advise them of any proposals located over or within 3 meters of a public sewer. Under the provisions of Building Regulations 2000 Part H4, Severn Trent can direct the building control officer to refuse building regulations approval.

Please note that there is no guarantee that you will be able to build over or close to any Severn Trent sewers, and where diversion is required there is no guarantee that you will be able to undertake those works on a self-lay basis. Every approach to build near to or divert our assets has to be assessed on its own merit and the decision of what is or isn't permissible is taken based on the risk to the asset and the wider catchment it serves. It is vital therefore that you contact us at the earliest opportunity to discuss the implications of our assets crossing your site. Failure to do so could significantly affect the costs and timescales of your project if it transpires diversionary works need to be carried out by Severn Trent.

- 4.2.16 **Butterfly Conservation** - Butterfly Conservation supports the comments made by Natural England in their submission dated 19<sup>th</sup> July 2019 and we share their concerns over potential indirect impacts on the nearby SSSI and associated habitats of our reserve.

Butterfly Conservation owns and manages Prees Heath Common Reserve, which is situated immediately across the A49 road from the proposed development. As well as being in part a Site of Special Scientific Interest, the reserve is Open Access Land under the Countryside and Rights of Way Act 2000. Residents of the proposed housing development seeking to access the reserve would enter by the path at the northern end of the reserve, which is also part of the Shropshire Way. Dog fouling is a major concern throughout the reserve as it has become a popular site for people to walk their dogs. At present there are two dog waste bins at the southern end of the reserve, emptied weekly by Shropshire Council, but they are not used by all dog walkers. There is no such facility at the northern end of the reserve. Our efforts to encourage all dog walkers to act responsibly by clearing up after their dog have had only limited success, and there are still significant amounts of dog faeces to be seen on the reserve on any given day. Not only does this affect by the ecology of the reserve by enriching the soil, it also presents a hazard to everyone who visits the reserve.

Skylarks, a bird in population decline in Britain, breed on the reserve, particularly on the areas we are restoring to heathland following many years of arable cultivation. As they nest on the ground it is essential that dog owners keep their dogs on short leads from 1<sup>st</sup> March to 31<sup>st</sup> July, and there are several notices on the reserve to this effect. Again, not all dog owners comply with these notices, and additional dog walking can only increase the disturbance pressures on the skylarks trying to breed successfully. Both these problems are well documented in relation to urban-area heathlands elsewhere in the country.

- 4.2.17 **Whitchurch Rural Parish Council (02/07/19)** - The Parish Council notes the re-consultation for this planning application, however, maintains its previous strong objection to the proposed development on the following material grounds:

The Parish Council strongly objects to this application.

Whilst the Parish Council fully supports affordable home schemes there is concern over the choice of site for this application. Prees Heath is an area mainly comprised of service type businesses rather than homes i.e. pub/truck stop/lorry park/service station/fish and chip shop etc. The allocation for homes in SAMDev until 2026, in which Prees Heath is part of a community cluster, is for 10 houses. The Parish Council is of the opinion that this area is not the right location for this size of development.

The proposal does not meet the requirements of CS6 as it is inappropriate in scale, density and pattern in the context of this setting. The proposals are at odds with the scale and type of development in this area which is small scale and mainly single dwellings in a sporadic form. This site will not contribute to the health and well being of residents; being closely situated to 2 main A roads they will inevitably be exposed to noise and traffic fumes. Council members are of the opinion that it is not a good choice of location in which to raise young families, which will be the main target audience for this type of development.

There is very poor access into Tilstock village from Prees Heath. There is no pedestrian footway for children to walk to School or to reach the recreation facilities (Hall, Tennis and Bowling Club, playground, Church, cemetery, pub). The site exits onto a very busy main A road, close to the roundabout where the A41 and A49 converge. The traffic survey, carried out by a firm from Derby with no local knowledge, has noted movements only from Monday to Thursday. The weekend traffic on these routes is extremely busy, particularly on a Friday evening. There is an enormous 'bike' event every Thursday evening in Prees Heath where hundreds of motorcyclists meet. Large articulated lorries use the car parking facilities at the roundabout overnight and many have noisy refrigeration units running all night. Local businesses depend on this type of business (and a vintage tractor event) for their livelihoods. Councillors are concerned, not only for the immediate loss of residential amenity for any new residents should this development be built, but for potential detrimental impact on local businesses should new residents complain about noise



and pollution nuisance. The businesses have been in situ for c 50 years and the Parish Council is determined to protect them.

Insufficient amenity space has been allocated in the plans for the number of houses (contrary to CS6). Current standards demand 30sqm per person, with a 400m walk to open areas. Whilst the Parish Council notes that there is an SSI in this area, to access it residents are required to cross the A49. The Parish Council has recently received (from the Butterfly Trust) and made complaints to the Highways Dept about concerns accessing this area from Golf House Lane and the service areas on the A49 as it is becoming increasingly hazardous for pedestrians, horse riders and cyclists. Council members queried the anticipated vehicle movements in and out of the estate. It must be anticipated that there will be 2 cars per household. There is no local employment so it will be necessary to drive to work. Parents will need to drive their children to Schools. Shopping will have to be done in Whitchurch. All of these activities require the use of cars.

The Council is concerned that the proposed housing number is overdevelopment of the plot, particularly in relation to amenity space provision and the size of gardens allocated. Cycle and pedestrian access is totally inadequate. Councillors are concerned that a development of this size will irrevocably change the context and character of the area. They have queried the suitability of the location for families to raise children.

Infrastructure in this area is considered poor (CS8) - there is, for example, no street lighting in Golf House Lane which is an unsurfaced road, essentially a bridle path, with no mains gas. It is largely unsuitable for vehicles and has no passing places. This application will not improve the existing facilities, services or amenities or improve the quality of life of the local residents. Building a comparatively large development in this area it will have a detrimental impact on the environment through essential increase in traffic movements, therefore increasing the adverse impact on climate change. Contrary to CS8 and CS7 this proposal will not improve travel behaviour but will exacerbate the problem by increasing the need to travel as the plot is so far from necessary amenities such as shops, schools, recreation facilities etc.

The proposals are contrary to CS5. The Parish Council does not believe that the proposed development would maintain or enhance countryside vitality and character and will not improve the sustainability of the local community as there will be no benefit to the local area. Residents will be forced to go outside of the local area for all their day to day needs as they cannot be met in the immediate vicinity due to lack of pedestrian access and location.

Finally, the proposals are contrary to CS4 as the proposals are not of a scale or design or pattern of development that is sympathetic to the character of the settlement and its environs and does not satisfy CS6. The Parish Council believes that Prees Heath is an area suited to small scale development and infill, not large

scale developments, albeit affordable homes. Quality of life for future residents must be considered when determining this application.

To conclude, the Parish Council objects to this application.

## 4.2 Public Comments

4.2.1 Twenty letters of objection have been received raising the following concerns:

- Cramped and overdeveloped.
- Limited public transport and reliance of use of cars.
- Road between Prees Heath and Tilstock is narrow and dangerous.
- Impact on SSSI and blue studded butterfly.
- No mains gas and low water pressure.
- Impact on drainage capacity.
- Golf House Lane is narrow and is a bridleway.
- Proposed access is dangerous.
- A49 road is congested and busy.
- Noise impact from the A49 and A41.
- Pollution from increased cars.
- Development should include charging points.
- Noise from truck stop.
- Prees Heath is a truck stop and area for motor bikers to congregate cause safety concerns.
- Development will become an area for unemployment and socially deprived individuals.
- Reduction in property values.

4.2.2 A petition has been signed from 102 individuals raising the following concerns:

- Development is inappropriate in scale, density and pattern in context with the settlement.
- Prees Heath mainly consists of service type businesses.
- Poor access to Tilstock village from Prees Heath
- Concerns over function and sustainability of development and how residents will access local services.
- Lack of suitable infrastructure.
- Development will not maintain or enhance the countryside vitality and character.
- Not considered to represent infill development.

4.2.3 One letter has been received who supports the principle for building starter homes, but concerns raised regarding educational and employment opportunities that would be necessary to support the occupiers.

4.2.4 One letter of support has been received from a local resident raising the following comments:

- Objections received are probably from residents who have bought their properties and are in a fairly affluent positioned.
- There are no affordable dwellings within Prees Heath and those on lower income need an opportunity to buy their own homes.
- Housing Association properties are fully occupied.
- The surrounding petrol station, shop, chip shop & cafes will all benefit from the development.
- The development will be within walking distance of the local bus stop.
- Children thrive on these types of developments which gives the opportunity for a small community to build up.
- Proposed layout provides good range of scope for multiple budgets.
- The development will sustain local businesses & provide a safe neighbourhood away from busy roads.

4.2.5 One letter of support has been received from a young local resident on a low full-time income, who is local, as it will give them the opportunity to be able to get onto the property ladder. They have confirmed that there is a big shortage of affordable houses in the area and all new builds are overpriced and Gleeson doesn't let investors buy properties to let which is an asset to the community.

## **5.0 THE MAIN ISSUES**

- Background
- Policy & Principle of Development
- Design, Scale and Character
- Open Space
- Impact on Residential Amenity
- Impact from Noise
- Impact from Ground Gas
- Highways
- Impact on Trees
- Ecology
- Drainage
- Flooding
- Affordable Housing
- Impact on Mineral Extraction
- Community Infrastructure Levy
- Education
- Other Matters

## **6.0 OFFICER APPRAISAL**

### **6.1 Background**

- 6.1.1 A Planning Statement has been submitted with the application which indicates that Gleeson Homes focuses solely on building low cost homes for people on low income typically in areas of industrial decline and social and economic deprivation. They build a range of affordable homes for sale to people who would otherwise be unable to afford a new home.
- 6.1.2 Gleeson's Homes are priced so that they can be afforded by 90% of the local couples in full time employment. To establish sales prices, the Government's ASHE (Annual Survey of Hours and Earnings) figures are used to determine the lowest wages within the Local Authority. A modest multiple is then applied to the bottom twenty percentile to calculate the level of mortgage which can be afforded by 90% of people living in the local area. As a result, Gleeson homes are priced 20% below local market value, and this type of housing is now identified as affordable housing in the revised definition of affordable housing in the National Planning Policy Framework.
- 6.1.3 Gleeson Homes focuses solely on building low cost homes for people on low incomes. They build a range of affordable new homes for sale to people who would otherwise be unable to afford a new home, thereby helping them onto the property ladder. They do this in a number of ways that are fully set out in the applicants Economic Benefits Report, but include the following:
- Gleeson's Save and Build Scheme, for which Gleeson fix the price of the house for homeowners and put in a saving plan in place for them to save for the deposit for up to 12 months, during which Gleeson regularly check in with their customers;
  - Gleeson's Parents Invest scheme, in which Gleeson pay direct to the Parents 5% interest on the deposit sum they have invested on behalf of their children;
  - Gleeson's Aspire to Own scheme, in which Gleeson pay 5% towards the required deposit and contribute the mortgage valuation fee and offer £750 towards purchase fees;
  - Gleeson's Advance to Buy scheme, in which Gleeson manage the sale of their customer's existing house and contribute £500 towards the selling fees;
  - National Government's Help to Buy scheme;
  - Traditional incentives such as decoration, landscaping and fittings etc; and
  - Gleeson's Design for Disability in which offer free disabled adaptations to the new homes for disabled occupants.
- 6.1.4 Gleeson Homes do not sell to landlords and sale contracts with customers include a 'no rental' covenant, in perpetuity, without express approval.
- 6.1.5 Informal pre-application advice was sought in March 2019 between officers and the Ward Councillor to discuss the Gleeson's housing model which was of interest to both officers and councillors who acknowledged that the Council has an affordable housing shortage and that increasing the affordable housing stock remained a priority. Shropshire Council recognise that there is an affordability issue in respect

of housing across the County, largely because of low incomes that are disproportionate to housing costs.

## 6.2 Policy & Principle of Development

- 6.2.1 Applications for planning permission must be determined in accordance with the development plan unless material considerations indicate otherwise (Section 38(6) of the Planning and Compulsory Purchase Act 2004). 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 National Planning Policy Framework constitutes guidance for local planning authorities as a material consideration to be given significant weight in determining applications.
- 6.2.2 The NPPF in itself constitutes guidance for local planning authorities as a material consideration to be given significant weight in determining applications. The NPPF sets out the presumption in favour of sustainable development through plan-making and decision-taking. The NPPF reiterates that in assessing and determining development proposals, local planning authorities should apply the presumption in favour of sustainable development. These considerations have to be weighed alongside the provisions of the development plan. Development plan policies of particular relevance to assessing the acceptability of this housing application in principle are discussed below.
- 6.2.3 For the purposes of the assessment of this application the development plan presently comprises of the adopted Shropshire Core Strategy 2011; the adopted Site Allocations and Management of Development Plan 2015; and Supplementary Planning Documents.
- 6.2.4 Policies CS1 and CS4 of the Core Strategy set out the strategic approach to housing provision. It is envisaged that Community Hubs and Clusters will enable the rural rebalance to make rural areas more sustainable and accommodate around 35% of Shropshire's residential development. The identification of Hubs and Clusters is done through the SAMDev Plan and therefore policy CS4 is reliant on the SAMDev for the detail of settlement allocation. Policies CS1 and CS4 are consistent with the objectives of the NPPF to focus new development in sustainable locations.
- 6.2.5 Policy S18.2 (ii) of the SAMDev Plan indicates Whitchurch Rural & Ightfield and Calverhall as an allocated Community Cluster. Residential development will be delivered through the development of allocated sites in Tilstock, Ash Parva and Prees Heath, together with development of infilling, groups of houses and conversions on suitable sites within the development boundaries identified on the Policies Map or on well related sites to Prees Heath. It is envisaged that the Community Cluster will provide around a further 100 dwellings up to 2026. The distribution of housing identified in Policy S18.2 (ii) recognises the role each settlement already plays within the Cluster, their existing services and facilities and opportunities to deliver sustainable development.

- 6.2.6 Prees Heath has only one allocated site (PH004 - Former Cherry Tree Hotel and adjoining land) and will provide 5 dwellings. At present no formal application has been approved for development on this site. Prees Heath does not have a formal development boundary, although officers consider that the proposed application site is located within the main built up area of Prees Heath. The site forms a parcel of land which is enclosed by residential properties, commercial development and vehicular access lane and does not have a physical connection to open countryside or agricultural land. The proposed site clearly relates to the existing built form of Prees Heath and will not result in an isolated form of development and would be sympathetic to the character of the settlement and its surrounding environment.
- 6.2.7 An Agricultural Land Classification Assessment has been carried out of the site which indicates it is grade 3a (good quality agricultural land). However, it has previously been used as a paddock and does not easily link in or provide good agricultural machinery access. The site is not prominent as viewed from the main A49 and would provide a relatively natural expansion of the settlement without extending into prime agricultural land.
- 6.2.8 Prees Heath benefits from a good level of service provision given its strategic location at the junction of the A49 and A41 on the main trunk road network. As such the settlement includes the following services Prees Heath Fish and Chip Restaurant; Select and Save convenience store; a petrol filling station with convenience provision; Raven and Midway Truck stop Cafés; truck parking areas; Raven Public House and Hotel; and the Aston Barclay car auction. The bus route 511 also passes through the village with stops on Tilstock Lane, providing regular links to Tilstock, Whitchurch and Shrewsbury.
- 6.2.9 The Whitchurch and Surrounding Area Place Plan sets out a priority for affordable housing provision and open space and indicates a desire for starter homes which are affordable to first time buyers.

#### Evidence of Demand

- 6.2.10 A detailed assessment has been undertaken by Newgate Communications on behalf of the developers for 'The Case for new Homes' which has identified that there is a significant and specific problem in the area regarding entry-level housing in Prees Heath. Potential first-time buyers face a distinct lack of homes suitable to buy which has been indicated as follows:
- Whitchurch South is in the most deprived decile nationally, in terms of 'Barriers to Housing and Services', which measures the physical and financial accessibility of housing and key local services.

- According to the 2011 Census, there are 1,811 homes in the entire Whitchurch South Ward. However, 2,263 people searched for property in Prees Heath specifically on Rightmove in July 2020 alone.
- There is a supply gap at the smaller end of the property market in Prees Heath, as detached properties comprise over 40% of the total stock and terraced properties, (which traditionally offer people the much-needed first step on the ladder) comprise of just 14% of the total housing market.
- Local people also facing pressure from house buyers outside of the area, with 19% of properties sold in Shropshire Council area classified as second homes or properties to rent out according to an article in the Shropshire Star dated 6th October 2018.
- Shropshire has an ageing population, which the Council recognise as one of the central challenges facing the Shropshire economy. One way to ensure that people of working age remain in the County is to ensure that suitable and affordable homes are available. 80% of Gleeson customers are under the age of 30 by virtue of the product they offer, the scheme therefore provides a real alternative to help attract and retain young professional workers in the area.
- Shropshire supports a relatively low wage economy, with its residents earning significantly less than both the regional and national averages, driven by a reliance on low-paid sectors. Gleeson have agreed to enter into a S106 agreement with the Council to ensure that 25 of the homes proposed are priced so as to be affordable for local couples on low incomes.
- High house prices are a recognised issue in the Borough with the Council's evidence base for the emerging Local Plan Review applying an affordability ratio of 7.91 in identifying their housing needs over the emerging plan period.
- This is expanded upon further in the Strategic Housing Market Assessment Part 1 that confirms high house prices and low income employment opportunities as two of the main factors contributing to the affordability crisis. The proposed development offers a real opportunity to address this in the immediate term through the provision.

6.2.11 The developers have undertaken a community consultation process with a newsletter sent to every household and business within 3.16 miles of the site. All of the responses received were supportive. The Affordable Housing Team have assessed the evidence and agree there is a local demand for affordable housing in the local area.

#### Assessment of Market Review Report

6.2.12 The proposed scheme is for low cost affordable housing in which the dwellings would be sold at 20% below local market value. In planning terms if the sale value is less than 20% market value then they would be considered as affordable dwellings under the National Planning Policy Framework. A detailed Residential Market Review report has been submitted by Cushman & Wakefield, although the Council Affordable Housing Team raised concerns that it is difficult to compare the average sale value for dwellings in the local area as the dwellings are very different from those built by Gleeson Homes. However, based on new build values and comparing

this to what Gleeson Homes are proposing to sell the properties for the values were indicated at coming out at between 89% and 98% of the calculated value and not at 20% less than market value. A further response has been received from Cushman & Wakefield who consider that the analysis of the local housing market demonstrates a price differential of over 20% discount between the proposed Gleeson pricing and local market values and assessment of local affordability shows that most, if not all, of the Gleeson products would be accessible to the local residents in Shropshire and within the wider market. The Affordable Housing Team were not convinced that this development would provide dwellings at 20% less than the market value and the developers agreed to an independent assessment of the market review report on behalf of Shropshire Council by RCA Regeneration Ltd.

- 6.2.13 This assessment indicated that the Gleeson's proposed pricing for the semi-detached units exceeded 80% of market value and that their prices need to be reduced by between £3,000 and £8,000 for them to be classed as affordable. Whilst they considered that the proposed values for the detached units are within the 80% of market value limit and so therefore they believed that the Gleeson values for the detached units can be classed as affordable.
- 6.2.14 However, the assessment has incorrectly assumed that if the value were 80% of the open market value then they would be affordable. This is not the case as the value also has to relate to local income. The Affordable Housing Team have confirmed that in the affordable housing policy 'local' is defined as the parish and this site sits within Whitchurch rural. The median income for Whitchurch rural is £37,674 which using a x4 multiplier would give an affordable value of £150,969. It has been indicated by RCA Regeneration Ltd that if the properties open market value were reduced to 80% then all but the detached homes would be affordable.
- 6.2.15 However, in relation to the Gleeson's proposed values this would indicate that the two largest 3-bedroom semi-detached dwellings (772 and 788 sqft) and all of the detached dwellings would exceed the median income. However, the developer has agreed to cap the house value for those properties priced in excess of the RCA's affordable values. This would result in all of the semi-detached dwellings falling within the affordable value of £150,969.



House Type	No	SqFt	RCA Identified		Gleeson's Original Proposed Values	Revised Values Offered Apr-20
			Open Market Value	Affordable Value		
2B/SD	0	651	£152,500	£122,000	£125,000	£122,000
2B/SD	12	671	£155,000	£124,000	£130,000	£124,000
3B/SD	12	759	£177,500	£142,000	£145,000	£142,000
3B/SD	0	772	£180,000	£144,000	£152,000	£144,000
3B/SD	1	788	£185,000	£148,000	£155,000	£148,000
3B/Det	9	772	£215,000	£172,000	£165,000	£172,000
3B/Det	8	807	£225,000	£180,000	£170,000	£180,000
4B/Det	6	1,172	£282,500	£226,000	£210,000	£225,000*

Source: Gleeson Homes - Affordability Position in Respect of Value and Income (August 2020)

- 6.3.16 Detailed discussions have taken place between officers and the developer as it was apparent that the detached dwellings would not be affordable. It was agreed that the detached dwellings would not be affordable and these would be now classified as open market dwellings which would be liable for CIL payment. These dwellings would still be 20% lower than the average open market value. Prees Heath consists of predominantly larger plots and has experienced a recent increase in large detached properties along Golf House Lane. The open market dwellings would have smaller plots and would be more modest in size and would help to provide a broader range of house types and prices within the settlement.
- 6.3.17 The Affordable Housing Team have confirmed that the proposed 25 affordable homes (if limited in their sales values) can be described as affordable homes based on local incomes. The National Planning Policy Framework published in July 2018 included a revised and expanded definition of Affordable Housing including the following:

*“d) Other affordable routes to home ownership: is housing provided for sale that provides a route to ownership for those who could not achieve home ownership through the market. It includes shared ownership, relevant equity loans, **other low cost homes for sale (at a price equivalent to at least 20% below local market value)** and rent to buy (which includes a period of intermediate rent). Where public grant funding is provided, there should be provisions for the homes to remain at an affordable price for future eligible households, or for any receipts to be recycled for alternative affordable*

*housing provision, or refunded to Government or the relevant authority specified in the funding agreement.”*

- 6.3.18 The developer has indicated that in its definition of affordable housing that schemes that do not benefit from public grant funding do not need to be subject to provisions for the homes to remain at an affordable price for future eligible households, or for any receipts to be recycled for alternative affordable housing provision or refunded to Government or the relevant authority specified in the funding agreement. On this basis there is no requirement for the affordable homes proposed to be secured in perpetuity.
- 6.3.19 The Affordable Housing Team has indicated that this low-cost housing scheme is a new model for affordable home ownership in Shropshire that would not be secured in perpetuity. Officers have raised concerns that the second sale of the dwellings may result in the house value increasing and therefore not remaining at 20% below market value and at an affordable value. The Affordable Housing Team have indicated that it will therefore be necessary to monitor the values of the homes over the coming years and monitor all resales of the affordable units to ascertain whether this model would be suitable to be adopted by Shropshire Council. Concerns have also been raised that these dwellings may be purchased with the intention of providing a rental property, although Gleeson Homes impose a restrictive covenant on all their properties preventing them being rented in perpetuity.

### Conclusion

- 6.3.20 The proposed number of units would exceed those which would be classified as infilling or groups of houses as indicated in policy S18.2 (ii) of the SAMDev Plan. However, this development represents a real opportunity to provide a significant boost to affordable and low-cost home ownership within the Whitchurch rural area. Prees Heath has a number of local key community facilities, with good access to Whitchurch and available public transport making this a sustainable settlement for residential development. The proposed scheme would result in new recreational play facility for the settlement and improvements to the wider public open spaces and will assist the protection of important ecology sites (as indicated in Sections 6.4 and 6.10). Officers consider that the principle for residential can be supported.

## 6.3 **Design, Scale and Character**

- 6.3.1 Policy CS6 'Sustainable Design and Development Principles' of the Shropshire Core Strategy requires development to protect and conserve the built environment and be appropriate in scale, density, pattern and design taking into account the local context and character. This is reiterated in policy MD2 of the SAMDev Plan which indicates the development should contribute and respect the locally distinctive or valued character and existing amenity value. The development should also safeguard residential and local amenity, ensure sustainable design and construction principles are incorporated within the new development.

- 6.3.2 The application site consists of 1.73 hectares of vacant land within a mixed-use area and is predominantly square and flat. There is an existing access off the A49 Whitchurch Road which currently serves the car park of the adjacent restaurant and convenience store. The original layout submitted provided a total of 53 dwellings, although concerns were raised regarding the level of open space and the layout was altered to reduce the number of units down to 48 and increase the area of land designated as open space. This has resulted in a density level of 27 units per hectare which is similar to a more built up environment.
- 6.3.3 The open market dwellings consist of seventeen detached 3-bedroom and six detached 4-bedroom properties, whilst the affordable dwellings will consist of twelve 2-bedroom and thirteen 3-bedroom semi-detached dwellings. All the 2-bedroom and 3-bedroom properties fall within the space standards as set out in the Affordable Housing SPD, whilst the detached open market dwellings slightly exceed the minimum threshold.
- 6.3.4 The proposed dwellings will be of a traditional brick and tiled roof construction which will reflect similar housing designs in Prees Heath. They will utilise dormers and gables within the roof pattern to create a varied roofscape and be articulated with good quality detailing. Amended plans have been received to include chimneys to a number of the units. All of the properties have an enclosed modest sized private rear garden with an approximate minimum length of around 10 metres.
- 6.3.5 A new vehicular access will be created off the A49 towards the south eastern corner of the development site and will assist in providing a new entrance and improved car parking for the adjacent restaurant and shop. Two spine roads are served off the main estate road and results in residential development backing onto the north, south and west boundaries. An area of open space will be provided along the eastern boundary.
- 6.3.6 The development site includes a strip of land which runs to the west of The Golf House and links into Golf House Lane. A pair of semi-detached dwellings are proposed facing this lane and have been designed to appear as a single large dwelling to be in keeping with the larger detached properties opposite. Access for these two properties will be via Golf House Lane. Adjoining the rear gardens of these two properties is the Flogas compound which will serve the development and will be screened from public view by a native hedgerow.
- 6.3.7 A pedestrian footpath and link onto Golf House Lane to the west is proposed and will provide access to the bridleway and public rights of way network for occupiers of the new dwellings and access for existing residents living on Golf House Lane to provided improved pedestrian access to the local services.
- 6.3.8 The proposed development site is relatively well enclosed and within the main built up area of the settlement. The layout will provide a slightly higher level of density than some of the more spacious plots and large properties adjacent to the site.

However, this will result in an improved mix of small and more modest sized dwellings in the settlement for first time buyers.

## 6.4 Open Space

- 6.4.1 Policy MD2 of the SAMDev Plan indicates that adequate open space set at a minimum standard of 30sqm per person is provided for residential developments and that for developments of 20 dwellings and more the open space needs to comprise of 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.
- 6.4.2 The Recreation Team have indicated that the development will require the provision of 4,140sqm of open space, although they have confirmed that no formal on-site play area would be required. It has been indicated that the open space should be provided in a centralised location within the site so creating a 'village green' effect, lessening the possibility of anti-social behaviour. However, the area of public open space will be located along the eastern boundary adjacent to the petrol filling station and restaurant as this will provide a separation from the commercial uses and the residential. This area of the site also has a foul sewer running close to the boundary which requires a 5 metre easement and would prevent development in this area of the site. The proposed open space will be clearly visible from the main entrance road, the adjoining car park of the restaurant and there will be at least 14 dwellings facing directly towards the open space giving adequate surveillance of the open space.
- 6.4.3 The developer has agreed to the provision of an enclosed equipped play area which has a mixture of formal and informal play equipment suitable for a range of ages. This would include a raised grassed earth mound with a slide, boulders for climbing, fallen log, balance posts and beam, monkey bars and a toddler swing. This area of land would be relatively close to the entrance of the development and would allow access from other residents in the village to utilise the facility as there is no play area in Prees Heath. The nearest facility being at Tilstock approximately 1km away along a country lane. The developer has indicated that proposed play area would be maintained by a management company which the residents of the dwellings would sign up to.
- 6.4.4 Amended plans have been received during the consideration of this application which has increased the public open space to 1,983sqm, although this provides a shortfall of 2,157sqm. The proposed level of open space provided on site does not comply with the minimum standard required under policy MD2 of the SAMDev Plan. However, the Recreation Team have confirmed that any shortfall can to be provided as a financial contribution which would equate to £147,927 subject to suitable alternative local provision being provided. Prees Heath does not have any designated formal public open space, although residents do utilise the Prees Heath Common which adjoins the settlement. The proposed-on site public open space and play area would help to benefit the proposed residential development and the wider

community, whilst the financial contribution would be used in the local area for improvements to access and management of the Prees Heath Common and some visitor management measures in the Visitor Management Plan for Brown Moss.

- 6.4.5 The proposed new vehicular and pedestrian access for the residential development off the A49 is 67 metres away from Prees Heath Common. This covers an area of 21.68 hectares and is used by the local community for dog walking, running and exercise. This would provide a significant increase in available open space for all ages of residents to enjoy and is only a short walk from the development site. A pavement is available along the A49 to provide pedestrian access.
- 6.4.6 To the west of the development site is Golf House Lane which is classified as a bridleway and links up north to the Tilstock Road which is then only 800 metres away from the edge of Tilstock. There are also footpath links from the bridleway over the railway line to the west into Tilstock village. The Shropshire Way also passes the entrance to the development site and provides links to Whitchurch and Wem providing recreational options and access to the wider public rights of way.
- 6.4.7 Although the proposed development does not provide sufficient open space in line with current adopted policy MD2, on balance it is considered that there is open space locally and in easy access to the development site for residents to enjoy, whilst the commented sum which would be subject to a Section 106 obligation would benefit the management of these areas for the long term.

## 6.5 **Impact on Residential Amenity**

- 6.5.1 Policy CS6 'Sustainable Design and Development Principles' of the Shropshire Core Strategy indicates that development should safeguard the residential and local amenity.
- 6.5.2 There are a number of residential properties close to the site. Sunnyside is a bungalow and the curtilage is located along half of the northern boundary, although the frontage of this property faces west onto Golf House Lane and the rear elevation faces east over its large private rear garden. The proposed layout will have seven dwellings facing this boundary with the rear elevation being between 10 and 12 metres away from the mature landscaped boundary and outbuildings within the curtilage.
- 6.5.3 The Golf House is also a bungalow and located to the south east of the site and faces directly towards the main A49. This dwelling has an enclosed driveway which wraps around the north and west boundary of this property. The proposed layout will position the Flogas compound and two proposed semi-detached properties along this boundary. However, there is a mature evergreen hedgerow and the gable elevation of Plot 2 will be 5.5 metres from the boundary and 28 metres from the rear elevation of this bungalow. The proposed semi-detached dwellings will have a frontage facing Golf House Lane and will be over 37 metres away from Stirling View and Heathfields (two detached dwellings) on the opposite side of the lane.

- 6.5.4 The proposed properties along the southern boundary of the development site will have a rear elevation facing onto a paddock which backs onto Golf House Lane. There are three large properties to the west of the development site on the opposite side of Golf House Lane which are positioned over 21 metres away from the site boundary. The proposed layout will have seven dwellings facing this boundary with the rear elevation being between 10 and 12 metres away from the mature landscaped boundary.
- 6.5.5 Having regard to the layout, design and scale of the proposed dwellings in relationship to the neighbouring properties the development will not result in any significant overlooking or loss of privacy, cause an overbearing impact or result in loss of light.
- 6.5.6 The proposed access is in a similar position to the existing access and is adjacent to the main A49 road. The nearest property to this is The Golf House which is over 30 metres away to the south and is separated by its own enclosed access driveway and a side garden. The existing car park will be moved slightly away from the boundary with this property, whilst the existing evergreen trees along the boundary adjacent to the new access will be maintained. Having regard to the existing background noise levels and use of the road the proposed movement of vehicles from the development is not envisaged to create any significant increase in noise or disturbance.
- 6.6 **Impact from Noise**
- 6.6.1 A detailed Noise Assessment has been carried out which has indicated that during the daytime noise levels at the site are mainly dominated by road traffic movements from the A49 and A41. During the night time the road traffic movements are reduced, and noise is more associated with mechanical services plant at the petrol filling station and the Prees Heath Fish & Chip restaurant which are located along the eastern boundary of the site. Noise monitoring has been undertaken together with recommending insulation measures to help reduce the noise level within the dwellings. It has been confirmed that the acoustic performances in all of the habitable rooms across the proposed development can be achieved by the provision of standard double-glazed windows within 4mm glass, 12mm cavity and 4mm glass, together with standard hit and miss trickle ventilators. The proposed sound insulation scheme will be designed to meet the BS8233:2014 standard which is 35dB for living rooms and 30dB for bedrooms during the night time (sleeping purposes).
- 6.6.2 The British Standard for noise levels within external spaces that are used for amenity such as gardens and patios indicate a desirable level of 50dB with an upper guideline value of 55dB which would be acceptable in noisier environments. The Noise Assessment has indicated that noises level adjacent to the truck stop to the north of the site is between 54 and 57dB. However, following construction of the development, it is expected noise levels across the site would be attenuated due to the screening provided by the properties. Furthermore, the developer is proposing

to construct a two metre high acoustic fence along the northern boundary where the development site meets the truck stop and the eastern boundary where the development meets the petrol filling station and restaurant. The proposed noise levels in the gardens directly adjacent to the boundary would be lower than the 55dB guideline.

- 6.6.3 Regulatory Services have assessed the noise report and have indicated that the site is a noisy environment that will require mitigation measures in order to achieve acceptable noise levels as defined by BS8233:2014. The report recommends mitigation measures that will enable the recommended noise levels to be achieved and a detailed mitigation scheme will have to be designed and implemented to ensure that these standards are met. A safeguarding condition is therefore proposed regarding acoustic specification of glazing, ventilation and boundary treatments across the site.

## 6.7 Impact from Ground Gas

- 6.7.1 A detailed Ground Conditions Assessment has been submitted which includes a Phase 1 Desk Study Report. No contaminants of concern above the relevant screen values have been identified that requires remediation. Regulatory Services have indicated that the consultants have undertaken a ground gas risk assessment based on two rounds of gas monitoring which is short of the industry best practice which suggests that gas protection is not required. They advise in the absence of any identified ground gas source or deposits of putrescible material during the site investigation they consider that it is unlikely that ground gas would present a significant constraint to the proposed development. However, the recommendation is that supplementary gas monitoring is undertaken having regard to NHBC and CIRIA Guidance due to the sensitivity of the development to prove this statement.

- 6.7.2 Further monitoring was undertaken between October 2019 and January 2020, on six occasions at all five gas monitoring installations that were constructed at the site in 2018. The further monitoring period encountered similar ground gas conditions to that of 2018. The Gas Screening Value calculated for carbon dioxide, corresponds with an NHBC and CIRIA classification of “Green”. This is indicative of a low gas regime and would not require the implementation of any specific protective measures for new residential developments. Regulatory Services have therefore confirmed that based on the results of the supplementary gas monitoring the development does not require any gas protection measures being implemented.

## 6.8 Highways

- 6.8.1 Policy CS6 ‘Sustainable Design and Development Principles’ of the Shropshire Core Strategy indicates that proposals likely to generate significant levels of traffic should be located in accessible locations where there are opportunities for walking, cycling and use of public transport can be maximised and the need for car-based travel to be reduced. This policy also indicates that development should be designed to be safe and accessible to all.

- 6.8.2 The application has been accompanied by a detailed Transport Statement and Stage 1 Road Safety Audit. The proposed development provides a new improved access onto the main A49 Whitchurch Road just south of the main roundabout junction with the A41. This improved access will serve both the existing restaurant and convenience shop and the proposed residential development. The proposed junction will provide a turning radius of 10 metres which will accommodate all vehicles including service vehicles, whilst visibility splays of 2.4 metres by 104 metres in a northern direction up to roundabout and 2.4 metres by 215 metres in a southern direction can be provided. The access and visibility fully satisfy the design standards for priority junctions which access onto 60 mph roads as set out within the Design Manual for Roads and Bridges.
- 6.8.3 The Transport Statement has reviewed the accident incidents which have occurred in the vicinity of the site entrance for the past five years which includes the A49 that operates past the site entrance; the A41 which approaches to the A41/A49 roundabout; and local roads. A total of seven incidents occurred in the vicinity of the site and all the findings did not appear to provide any underlying trend for accidents which would otherwise indicate the condition and layout of the existing road network is unsafe. No incidents involved vehicle collisions with pedestrians or cyclists, and no collisions occurred during conventional weekday peak periods indicating there are no underlying issues associated with non-motorised users or accidents linked to congestion.
- 6.8.4 The site is located within easy walking distance from and to the village of Prees Heath. Whilst being of rural character, Prees Heath village does contain a range of services and facilities as it situated at the intersection of two major road corridors and benefits from road side services that can be utilised by residents of the development site. All of these services fall within a 4 minute walk from the proposed development site entrance including the petrol filling station including convenience food (80 metres); two Truck stop cafeterias (200 metres); an Indian restaurant (280 metres); The Raven public house (300 metres); and Tilstock Road bus stops (300 metres). There is pedestrian and cycle infrastructure in the immediate vicinity of the site entrance with footways connecting between the site entrance to the north towards facilities located within Prees Heath.
- 6.8.5 Officers are aware that Tilstock village is the nearest settlement with a different range of services and that it has no pedestrian footpath from Prees Heath for children to walk to school or to reach recreation facilities. However, not all rural settlements provide all the necessary day to day essential services and it is recognised that settlements have to rely on shared facilities and that there may be a necessity for using a vehicle for accessing some services. However, Tilstock is only 1 mile down a country lane and would be easily accessible by cycle.
- 6.8.6 The proposed estate roads will provide adequate width for passing vehicles and turning heads for refuse vehicles, together with 1.8 metre wide pavements for pedestrians and crossing points. All of the dwellings will be provided with driveways



for a minimum of two car parking, whilst a number of the properties will also have secure garages.

- 6.8.7 The Council Highways Manager has not raised any objection to the application subject to a number of safeguarding conditions which relate to full engineering details of the design and construction of new roads, footways, accesses, street lighting and disposal of highway surface water be submitted for approval; a phasing plan to agree that the new access and car parking are provided as a first phase to ensure that the development traffic is not affected by the restaurant patrons; and that a Construction Management Plan and Method Statement are submitted in the interest of highway safety.

## 6.9 **Impact on Trees**

- 6.9.1 Policy CS17 'Environmental Networks' of the Shropshire Core Strategy indicates that development should protect and enhance the local natural environment. A detailed Arboricultural Impact Assessment and Landscape Strategy Plan has been submitted which indicates three mature 'B' category trees (1 Birch and 2 Oak) are to be lost and mitigation planting is required. The Council Tree Officer has recommended that one large long-lived tree (such as oak, lime or sweet chestnut for example) should be provided for every 24 bed spaces. Large trees such as these should be planted on communal space rather than enclosed within private gardens. Recommendations have also been made to the smaller scale ornamental trees within the front gardens. A revised Landscape Strategy Plan has been submitted indicating tree species in line with the Tree Officers recommendations and that the large long-lived trees will be accommodated within the open space. Native hedgerows will be planted around the open space adjacent to the petrol filling station and restaurant, together with along the rear gardens on the southern boundary adjacent to the paddock. The exact details of the landscaping will be controlled by a soft and hard landscaping condition.

## 6.10 **Ecology**

- 6.10.1 Policy CS17 'Environmental Networks' of the Shropshire Core Strategy indicates that development will identify, protect, expand and connect Shropshire's environmental assets to create a multifunctional network and natural and historic resources. This will be achieved by ensuring that all development protects and enhances the diversity, high quality and local character of the natural environment and does not adversely affect the ecological value of the assets, their immediate surroundings or their connecting corridors. This is reiterated in national planning guidance in Section 15 'Conserving and Enhancing the Natural Environment' of the National Planning Policy Framework. This indicates that the planning system should contribute to and enhance the natural and local environment by protecting and enhancing valued landscapes, minimising impacts on biodiversity and providing net gains where possible.
- 6.10.2 Natural England have indicated that the proposed development is in close proximity to Prees Heath SSSI which is a remnant of the formerly extensive lowland heaths of

North Shropshire. The site is especially important for its population of the nationally scarce Silver-studded blue butterfly and is the last surviving Midlands colony of this butterfly. The site also supports an interesting mix of acid grassland, neutral grassland and scrub habitats. The SSSI forms part of the larger Prees Heath Local Nature Reserve (LNR) which totals 60 ha in area. The SSSI is currently in an unfavourable condition with 84.41% of its area considered to be 'Unfavourable – Recovering' and 15.59% considered to be 'Unfavourable – Declining. Current issues experienced by the SSSI relate to use of the site for recreation (presumably walkers), and in particular dog fouling. Concerns have been raised that the proposed development will provide a number of new residents to the vicinity of the site with a restricted open space provision and will lead to residents using Prees Heath. Natural England have indicated that options for mitigating the potential recreational impacts may include improved links to the wider countryside to the west of the development site or contributions to the management of the Prees Common nature reserve.

- 6.10.3 The developer's ecologist has indicated that up to 26% of the households may own a dog which would equate to 12 additional dogs in the neighbourhood. It has been indicated that with pedestrian access being provided from the development site onto Golf House Lane (a public right of way) it is likely that a lesser number would be walked across the SSSI as some owners may not wish to cross the A49 road. Although Officers have concerns that specific evidence has not been provided to demonstrate that this would be the case, clearly Prees Heath Common is a large area of open space in which dog owners would welcome the area in which to exercise them off the lead. However, of the dog owner who do chose to access Prees Heath Reserve it is considered likely only a small number will not pick up after their dog. Wet dog faeces contain nitrogen, phosphate and potash which can cause an influx of these nutrients and particularly nitrogen into the soils which can increase soil fertility levels. In relation to heathers which require low soil fertility it can be detrimentally alter the growing conditions for plants and ultimately impact the populations of butterflies and other organisms which rely on them.
- 6.10.4 The developer's ecologist has indicated that any impact is likely to be very low with any slight increases in nutrient levels likely to be undetectable in the growth rates of plants and as such the impact on the Silver-studded blue butterfly is also likely to be undetectable. However, the developer's consultant has been in discussion with the Prees Heath Reserve Officer who has indicated that there is a Draft Management Plan which the developer can contribute towards. Comments have also been received from the Head of Serves for the Butterfly Conservation Trust who has indicated that the reserve is currently under an Environmental Stewardship agreement and that any supplementary funding would be compliant with the scheme obligations. The developers have negotiated a contribution payment of £3,500 for the purposes of enhancing the Prees Common Reserve which will include the following:
- Upgrading of two nature reserve information panels
  - Reprinting with minor amendments of nature reserve leaflet highlighting new access points

- Provision of an additional nature reserve leaflet box
- Provision of two green oak backless benches on the nature reserve
- Provision of two raptor bird boxes.

- 6.10.5 The developer has included a dog waste bin on the public open space on site, which has now been increased in size to 1,983sqm, with the number of homes reduced to 48. A commuted sum for open space provision of £147,927 has been proposed to cover the shortfall in public open space. A dog waste bin has also been included adjacent to the footpath link heading west from the site, to encourage dog walkers to use the footpaths in this area too (away from the SSSI). In addition, they are prepared to include leaflets educating people about their impacts on the SSSI and things to do to minimise this in the home owners' packs.
- 6.10.6 Brown Moss is an internationally designated site 1.3 km to the north as the crow flies. Increased recreational pressure has been identified as a damaging factor in the Local Plan Habitats Regulation Assessment. Any development which may affect an international site, either alone or in-combination with other plans or projects must be subjected to a project level HRA by the Local Planning Authority. A Habitats Regulation Assessment has been attached to this consultee response. Under policies MD12 and MD2 of the SAMDev Plan, a possible mitigation measure for removing impacts via dog-walking is to provide more than the required open space on the development site. The open space on the development site is less than 30sqm per person and it is not clear if the proposed commuted sum for open space provision this will be used within the Zone of Influence of Brown Moss. However, in view of the close proximity of the Prees Heath SSSI and nature reserve, and the mitigation measures detailed above, it is unlikely that significant numbers of visits will be made to Brown Moss as a result of this development.
- 6.10.7 Natural England have been consulted on the Habitats Regulation Assessment and their comments must be taken into account before a planning decision can legally be made. If Natural England raise concerns that the mitigation measures are not satisfactory for the lifetime of the development, then the Ecology Team have confirmed that the application should be refused as there would be an adverse effect on the integrity of Brown Moss. (The HRA is attached as appendix 2 to this report).

## 6.11 **Drainage**

- 6.11.1 Policy CS18 'Sustainable Water Management' of the Shropshire Core Strategy indicates that development should integrate measures of sustainable water management to reduce flood risk, avoid an adverse impact on water quality and quantity and provide opportunities to enhance biodiversity. The application indicates that foul water drainage will be directed to the existing foul mains which is the preferred option and allows the foul water to be dealt with in an effective and sustainable manner. The application indicates that surface water will be drained using SuDs that infiltrate using soakaway and the Drainage Engineer has indicated that percolation test and soakaways should be designed in accordance with BRE Digest 365. No concerns have been raised regarding the suitability of the local

ground conditions and therefore it is recommended that both the foul and surface water drainage are conditioned accordingly for details to be submitted and approved prior to the commencement of works on site.

## 6.12 **Flooding**

6.12.1 Policy CS18 'Sustainable Water Management' of the Shropshire Core Strategy indicates that development should integrate measures for sustainable water management to reduce flood risk and development sites within flood risk areas should be developed in accordance with national planning guidance contained in Section 14 'Meeting the Challenge of Climate Change, Flooding and Coastal Change' of the National Planning Policy Framework. A detailed Flood Risk Assessment has been submitted which has indicated that the proposed site is within Flood Zone 1 "Very Low Risk" and therefore the site is not at risk from fluvial flooding, although the development should mitigate the risk of surface water flows with the use of appropriate drainage and SuDS techniques. With the appropriate level of on-site attenuation using a range of SuDS techniques the proposed development will reduce the risk of flooding and will not impact on the surrounding area. It is proposed that surface water flows will be kept on-site, and permeable SuDS used to discharge the flows into the ground. It has been concluded that the development will be low risk of flooding.

## 6.13 **Impact on Mineral Extraction**

6.13.1 The site is located in in a sand and gravel mineral safeguarding area and policy CS20 'Strategic Planning for Minerals' of the Shropshire Core Strategy and policy MD16 'Mineral Safeguarding' of the SAMDev Plan both seek to ensure that any non-mineral related development will not sterilise the resource. The application site is only 1.72 hectares in area and surrounded by existing development and therefore the amount of mineral available at the site is clearly limited and modest in amount if indeed it is present at the site. Therefore, it is not likely to be viable to extract it. Furthermore, given that the development is surrounded by residential development the ability to extract any minerals would be highly unlikely given the impact doing so would have on the adjacent residential dwellings. A petrol filling station directly abuts the site to the east, extraction of any minerals given this sensitive use is therefore not considered to be feasible.

## 6.14 **Community Infrastructure Levy**

6.14.1 Policy CS9 'Infrastructure Contributions' of the Shropshire Core Strategy indicates that development that provides additional dwellings or residential extensions over 100 square metres should help deliver more sustainable communities by making contributions to the local infrastructure. The arrangements for the use of the levy funds are detailed in the Local Development Frame Implementation Plan. The Community Infrastructure Levy will only relate to the open market dwellings and will result in a financial contribution of £265,183.

## 6.15 Education

6.15.1 Shropshire Council Learning and Skills have indicated that both the local and secondary schools are forecast, with housing development, to be oversubscribed by the end of the current plan period. With future housing developments in the area it is forecast that there will be additional strain on capacity and therefore it is essential that the developer of this new housing contributes towards the consequential cost of any additional places or facilities considered necessary to meet pupil requirements in the area. The 23 open market dwellings will be subject to a Community Infrastructure Payment and the educational provision will be secured from this. However, the developer is prepared to pay a financial contribution on the 25 affordable dwellings. The Shropshire Council Learning and Skills have indicated that on 25 dwellings this would produce an expected pupil yield of 5 primary school pupils, 4 secondary school pupils and 1 +16 pupil. Sir John Talbots School in Whitchurch has a sixth form. The total costs of the contribution would be £167,687 and would be secured via a Section 106 obligation (£73,089 primary, £78,175 secondary and £16,423 sixth form).

## 6.16 Other Matters

6.16.1 Concerns have been raised that the proposed development will become an area for unemployment and socially deprived individuals. No evidence has been submitted to justify this claim and the proposed dwellings will be private ownership homes which will be occupied by residents who are in employment and will not be rented accommodation.

6.16.2 Concerns have been raised that the proposed development will result in a reduction in property values. No evidence has been submitted to justify this claim and unfortunately this is not a material planning consideration which can be taken into account in the consideration of this application.

## 7.0 CONCLUSION

7.1 Although the proposed development will provide an increase over and above the housing allocation for Prees Heath this is balanced against the real opportunity to provide a significant increase in affordable and low-cost home ownership within the Whitchurch rural area. The open market dwellings will be modestly priced and bridge the gap between the much larger and more expensive detached properties which have been built within the settlement and local area over the recent years. The layout, scale and design of the dwellings is similar to other developments approved within rural settlements and will respect the built-up frontage along the main A49 and will not be viewed in a highly prominent location. The dwellings will respect neighbouring properties and will not result in any significant detrimental impact from either overlooking or loss of privacy, causing an overbearing impact or loss of light. Whilst vehicle movements will not result in any significant increase in noise and disturbance.

7.2 Whilst not specifically in compliance with Policy MD2 requirements for open space area provision on site, the proposed open space will provide a communal area and children's play area for occupiers of the development and the wider settlement, whilst additional hedgerow planting and trees which will enhance this area, along with an off-site financial contribution as discussed in this report.. The proposed highway network has sufficient capacity to accept the modest increase in traffic from this development, whilst the improved access for vehicles and pedestrians will not result in any highway or pedestrian safety issues. Adequate off-street car parking is provided, together with manoeuvring space for refuse collection. Adequate ecology mitigation is proposed so that the development will not impact upon the Prees Heath SSSI or the larger Prees Heath Local Nature Reserve

7.3 This application will be subject to a Section 106 obligation which will include the following provisions:

- The affordable dwellings are sold with a maximum sale price which is no more than 80% of the open market value or being no more than four times the median local income.
- Financial contribution of £3,500 to be transferred to the Prees Heath Common Reserve Butterfly Conservation Group for ecology mitigation in relation to impact on SSSI.
- Provision of two dog bins including the maintenance and emptying for the lifetime of the development.
- Provision of leaflets educating people about their impacts on the SSSI and things to do to minimise this in the home owners' packs.
- Financial contribution of £147,927 for the shortfall of public open space.
- Financial contribution of £167,687 for education.

7.4 In weighing up all the material considerations as discussed in this report, and the provision of affordable housing as indicated, on balance it is recommended that this application is delegated to the Planning Services Manager for approval subject to the completion of a satisfactory Section 106 obligation as indicated above and no objections being raised following the re-consultation with Natural England on the Habitats Regulation Assessment. (see appendix 2).

7.5 In arriving at this decision, the Council has used its best endeavours to work with the applicants in a positive and proactive manner to secure an appropriate outcome as required in 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 - written representations, a hearing or inquiry.

- The decision is challenged by way of a Judicial Review by a third party. The courts become involved when there is a misinterpretation or misapplication of policy or some breach of the rules of procedure or the principles of natural justice. However, their role is to review the way the authorities reach decisions, rather than to make a decision on the planning issues themselves, although they will interfere where the decision is so unreasonable as to be irrational or perverse. Therefore, they are concerned with the legality of the decision, not its planning merits. A challenge by way of Judicial Review must be a) promptly and b) in any event not later than 6 weeks after the grounds to make the claim first arose first arose.

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

## 8.2 Human Rights

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

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

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

## 8.3 Equalities

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

## 9.0 FINANCIAL IMPLICATIONS

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

## **10.0 BACKGROUND**

### **10.1 Relevant Planning Policies**

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

#### **National Planning Policy Framework:**

##### **Shropshire Council Core Strategy (February 2011):**

CS1 : Strategic Approach

CS4 : Community Hubs and Community Clusters

CS6 : Sustainable Design and Development Principles

CS11 : Type and Affordability of Housing

CS17 : Environmental Networks

CS18 : Sustainable Water Management

CS20 : Strategic Planning for Minerals

Supplementary Planning Document - Type and Affordability of Housing

##### **Site Allocations and Management Development Plan (December 2016):**

MD1 : Scale and Distribution of Development

MD2 : Sustainable Design

MD3 : Delivery of Housing Development

MD12 : Natural Environment

MD13 : Historic Environment

MD16 : Mineral Safeguarding

S18 : Whitchurch

### **10.2 Relevant Planning History**

NS/87/01004/OUT - Erection of motel and alteration to existing access. Granted 26<sup>th</sup> February 1988.

## **11.0 ADDITIONAL INFORMATION**

List of Background Papers - Planning Application reference 19/02203/FUL

Cabinet Member (Portfolio Holder) - Cllr Gwilym Butler

Local Member - Cllr Gerald Dakin

Appendices - None



## APPENDIX 1

### Conditions

#### STANDARD CONDITION(S)

1. The development hereby permitted shall be begun before the expiration of three years from the date of this permission.  
Reason: To comply with Section 91(1) of the Town and Country Planning Act, 1990 (As amended).
2. The development shall be carried out strictly in accordance with the approved plans and drawings  
Reason: For the avoidance of doubt and to ensure that the development is carried out in accordance with the approved plans and details.
3. Prior to the above ground works commencing samples and/or details of the roofing materials and the materials to be used in the construction of the external walls shall be submitted to and approved in writing by the Local Planning Authority. The development shall be carried out in complete accordance with the approved details.  
Reason: To ensure that the external appearance of the development is satisfactory.
4. No above ground works shall be commenced until full details of both hard and soft landscape works (in accordance with Shropshire Council Natural Environment Development Guidance Note 7 'Trees and Development') have been submitted to and approved in writing by the local planning authority. The landscape works shall be carried out in full compliance with the approved plan, schedule and timescales. Any trees or plants that, within a period of five years after planting, are removed, die or become, in the opinion of the Local Planning Authority, seriously damaged or defective, shall upon written notification from the local planning authority be replaced with others of species, size and number as originally approved, by the end of the first available planting season.  
Reason: To ensure the provision, establishment and maintenance of a reasonable standard of landscape in accordance with the approved designs
5. Details of the proposed children's equipped play area shall be submitted to and approved in writing by the Local Planning Authority prior to the occupation of the first dwelling. The agreed play equipment shall be implemented in full prior to the occupation of the 24th dwelling.  
Reason: To ensure satisfactory provision amenity space for future occupiers of the dwellings.
6. The construction and surfacing of the proposed footpath link onto Golf House Lane shall be 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 provision for pedestrian access to local services.

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

7. No development shall take place until full engineering details of the design and construction of any new roads, footways, accesses, street lighting together with details of the disposal of highway surface water have been submitted to and approved in writing by the Local Planning Authority. The agreed details shall be constructed to minimum basecourse construction before any dwelling is first occupied.  
Reason: To ensure a satisfactory access to the properties.
8. Before any other operations are commenced, the proposed vehicular access, visibility splays and amended restaurant parking arrangements shall be provided and constructed in accordance with a construction phasing plan to be submitted to and approved in writing by the Local Planning Authority; thereafter, the access to serve the residential land shall be completed in accordance with the approved details and construction phasing plan.  
Reason: To ensure that the development should not prejudice the free flow of traffic and conditions of safety on the highway nor cause inconvenience to other highway users, for the duration of the site construction and perpetuity.
9. Prior to the commencement of development, a Construction Traffic Management Plan (CTMP) and Method Statement shall be submitted to and approved in writing by the Local Planning Authority; the CTMP and Method Statement shall be in force for the duration of the construction of the development.  
Reason: In the interests of highway safety.
10. No development shall take place until a scheme of the 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/brought into use (whichever is the sooner).  
Reason: The condition is a pre-commencement condition to ensure satisfactory drainage of the site and to avoid flooding.

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

11. A scheme detailing the acoustic specification of boundary treatments, glazing and ventilation across the development site shall be submitted to and approved in writing by the Local Planning Authority. The scheme should be based on the findings of the noise assessment by 'Spectrum Acoustic Consultants - report RK2421/18106/Rev.1 dated 1st May 2019. The development shall be carried out in accordance with the approved details and acoustic scheme shall be installed prior to first occupation of the dwellings and retained thereafter.  
Reason: To protect residential amenity.

12. Prior to first occupation 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 10 artificial nests, of either integrated brick design or external box design, suitable for swifts (swift bricks or boxes).
  - A minimum of 10 artificial nests, of either integrated brick design or external box design, suitable for starlings (42mm hole, starling specific) and/or sparrows (32mm hole, terrace design).
- 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.

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

13. Prior to the erection of any external lighting on the site, a lighting plan shall be submitted to and approved in writing by the Local Planning Authority. The lighting plan shall demonstrate that the proposed lighting will not impact upon ecological networks and/or sensitive features, e.g. bat and bird boxes (required under a separate planning condition). 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. The development shall be carried out strictly in accordance with the approved details and thereafter retained for the lifetime of the development.
- Reason: To minimise disturbance to bats, which are European Protected Species.



## **APPENDIX 2**

### **Habitats Regulations Assessment (HRA)**

#### **1.0 Introduction**

The proposal described below has the potential to adversely affect a designated site of international importance for nature conservation. The likelihood and significance of these potential effects must be investigated.

This is a record of the Habitats Regulations Assessment (HRA) of the *Land Adjacent To Golf House Lane, Prees Heath, Shropshire (19/02203/FUL)* project, undertaken by Shropshire Council as the Local Planning Authority. This HRA is required by Regulation 61 of the Conservation of Habitats and Species Regulations 2017, in accordance with the EC Habitats Directive (Council Directive 92/43/EEC) before the council, as the 'competent authority' under the Regulations, can grant planning permission for the project. In accordance with Government policy, the assessment is also made in relation to sites listed under the 1971 Ramsar convention.

The following consultee responses from SC Ecology should be read in conjunction with this HRA: GolfHouseLane19.02203 and GolfHouseLane19(2).02203)

These are also available on the planning website:

<https://pa.shropshire.gov.uk/online-applications/search.do?action=simple>

Date of completion for the HRA screening matrix:

**27<sup>th</sup> October 2020**

HRA completed by:

Dr Sue Swales  
Natural Environment Team Leader  
Shropshire Council

#### **2.0 HRA Stage 1 – Screening**

This stage of the process aims to identify the likely impacts of a project upon an international site, either alone or in combination with other plans and projects, and to consider if the impacts are likely to be significant. Following recent case law (*People Over Wind v Coillte Teoranta C-323/17*), any proposed mitigation measures to avoid or reduce adverse impacts are not taken into account in Stage 1. If such measures are required, then they will be considered in stage 2, Appropriate Assessment.

**2.1 Summary Table 1: Details of project**

Name of plan or project	<p><b>19/02203/FUL</b> <i>Land Adjacent To Golf House Lane, Prees Heath, Shropshire</i></p> <p>Erection of 48 dwelling houses (23 open market and 25 affordable) including new vehicular access, public open space and associated infrastructure (amended description)</p>
Name and description of Natura 2000 sites	<p><b>Brown Moss SAC and part of the Midland Meres and Mosses Ramsar site Phase 1.</b></p> <p>Brown Moss (32.02ha) is a series of pools set in heathland and woodland. The site is of special importance for the marsh, swamp and fen communities associated with the pools which occupy hollows in the sand and gravel substrate. It is designated as a SAC on account of the presence of an Annex II species on the Habitats Directive, namely floating water-plantain <i>Luronium natans</i>.</p> <p>Ramsar criteria:</p> <p><b>Criterion 1a.</b> A particularly good example of a natural or near natural wetland, characteristic of this biogeographical region, The site comprises the full range of habitats from open water to raised bog.</p> <p><b>Criterion 2a.</b> Supports a number of rare species of plants associated with wetlands.</p> <p><b>Criterion 2a.</b> Contains an assemblage of invertebrates.</p> <p><b>Conservation objectives of Brown Moss SAC</b></p> <p><b>Ensure that the integrity of the site is maintained or restored as appropriate, and ensure that the site contributes to achieving the Favourable Conservation Status of its Qualifying Features, by maintaining or restoring;</b></p> <p><b>☐☐The extent and distribution of the habitats of qualifying species</b></p> <p><b>☐☐The structure and function of the habitats of qualifying species</b></p> <p><b>☐☐The supporting processes on which the habitats of qualifying species rely</b></p> <p><b>☐☐The populations of qualifying species, and,</b></p> <p><b>☐☐The distribution of qualifying species within the site.</b></p>
Description of the plan or project	<p>Erection of 48 dwelling houses (23 open market and 25 affordable) including new vehicular access, public open space and associated infrastructure (amended description)</p> <p>The following potential effect pathways have been identified:</p> <p><b>1 Recreational Pressure</b></p>

	<ul style="list-style-type: none"> <li>• Increased nutrients derived from dog faeces and urine damaging nutrient poor habitats and the dependant <i>Luronium natans</i></li> <li>• Increased physical damage to habitats through walkers and dogs, including swimming in the water.</li> <li>• Increased risk of introducing invasive species, via footwear, equipment and dogs.</li> <li>• The above potential impacts compromising the ‘restore’ objective.</li> </ul>
Is the project or plan directly connected with or necessary to the management of the site (provide details)?	No
Are there any other projects or plans that together with the project or plan being assessed could affect the site (provide details)?	The SAMDev Plan and Local Plan Review both identify site allocations which lie within the Zone of Influence of Brown Moss (estimated to be 3.4km from the site derived from on site visitor surveys). These allocations and any windfall sites would act in combination with the Golf House Lane project.

## 2.2 Description of the project

The proposed development consists of 48 dwellings on a 1.7 hectare site, approximately 1.3km from Brown Moss as the crow flies. The proposed development would also be 67 m to the north west of Prees Heath SSSI: a 21.68 ha nature reserve designated for its remnant lowland heath. The SSSI forms part of the larger Prees Heath Local Nature Reserve (LNR) which totals 60 ha in area.

Further details and associated documents are published on the Shropshire Council public website.

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

## 2.3 Consultations

Natural England has been consulted on this application. NE’s initial response was to require additional information on the impacts of recreation on the Prees Heath SSSI, advising mitigation measures may include improved links to the wider countryside to the west of the development site or contributions to the management of the Prees Common nature reserve. NE did not raise concerns over Brown Moss SAC or Ramsar Site.

## 2.4 Current baseline

Brown Moss consists of a series of pools set in heathland and woodland and is designated as a SAC specifically for its population of Floating Water Plantain *Luronium natans*. The latest record of Floating Water-plantain at this site dates from 2006. Annual surveys take place for the species and it is known to

appear after absences if management is favourable. Brown Moss is also part of the Midlands Meres and Mosses Ramsar Phase 1. SSSIs within the Ramsar Site were chosen for their range of natural or near-natural wetland habitats and associated rare plant and invertebrate assemblages. Of these wetland habitats, Brown Moss supports open water, swamp, fen and basin mire.

Recreation impacts are not mentioned as a pressure or threat in the Site Improvement Plan for Brown Moss (Natural England 2014). However, Natural England expressed concern over recreation impacts as part of the consultation with NE over the SAMDev Plan in 2014.

Brown Moss is owned by Shropshire Council, is a Countryside Heritage Site, Common Land and has been declared Open Access Land. Hence there is full public access to the site. There is a network of unsurfaced paths and tracks and boardwalks around pool 6. The Shropshire Council Brown Moss Management Plan 2014 - 18 states that the site is popular for quiet recreation such as walking, bird watching, dog walking and feeding the wildfowl. It is often used by people parking in the car parks and on the roadside in the evening. Occasionally horse riders have been spotted and local youths have been known to ride motorbikes around the site.

Luronium natans and other wetland habitats and plants could be sensitive to increased visitor pressure through a number of means:

- direct disturbance (swimming of dogs, trampling by people),
- eutrophication of water and surrounding habitats, particularly around pool 6,
- increased risk of non-native and/or invasive plant introductions,
- visitors creating makeshift bridges in wetter woodland areas with logs, affecting the flow of water to the pools and
- visitors preventing appropriate management of the site designed to restore the designated features (e.g. grazing).

Face to face visitor questionnaire surveys using a standard methodology were carried out at Brown Moss in August and September 2017. The results suggest that baseline recreational pressure is relatively low, at around 3 people per hour (averaged over the year) and 16,060 people per year. Dog walking was the most commonly cited reason for visiting (75.4%), and the majority of dog walkers said their dog(s) were let off the lead (70.2%). Just over a quarter of dog-owning groups (25.5%) said their dogs strayed off the main paths, but only four (8.5%) said their dogs went into the water. The study proposes an indicative catchment area of 3.4km (75% of visits) from Brown Moss, within which developments involving a net increase in housing may contribute to an increase in recreation pressure at the site. The number of proposed dwellings in the local Plan Review to 2038 are c. 1200 within this catchment or 'zone of influence'.

The report concluded that although any increase in visitor pressure is likely to be small, the sensitivity of the site means that the possibility of significant adverse effects in combination with other pressures on the site's structure, function and integrity cannot be ruled out. A likely significant effect from the proposals in the DLP cannot be ruled out and impact avoidance measures are required.

## **2.5 Initial screening for likelihood of significant effects on European Sites**

Likely significant effect pathways have been identified and EU sites have been screened against these to identify which sites could be adversely effected.

**Table 2 – Initial screening for likelihood of significant effects**

European designated site	Distance from project site	Site vulnerability	Potential Effect Pathways
Brown Moss SAC  Midlands Meres and Mosses Ramsar site Phase 2	1.3km	Colonisation by trees. Presence of invasives including <i>Crassula helmsii</i> and <i>Azolla</i> sp. Hydrological impacts. High phosphorus and nitrogen concentrations in groundwater and surface water feeding the pools. Public access preventing certain forms of restoration management. Ammonia concentration and nitrogen deposition Critical Levels and Loads exceeded.	<ul style="list-style-type: none"> <li>Increased nutrients derived from dog faeces and urine damaging nutrient poor habitats and the dependant <i>Luronium natans</i></li> <li>Increased physical damage to habitats through walkers and dogs, including swimming in the water.</li> <li>Increased risk of introducing invasive species, via footwear, equipment and dogs.</li> <li>The above potential impacts compromising the 'restore' objective.</li> </ul> <p><b>Not screened out (in the absence of mitigation measures)</b></p>

### 2.6 Summary of Stage 1 screening

There are potential pathways for a likely significant effect between the development/project and *Brown Moss SAC and Ramsar site* in combination with other plans and projects. Shropshire Council has sought more detailed information/mitigation measures from the applicant in order to consider if the development will have significant effects on the SAC and Ramsar sites (International Sites) or have an adverse effect on the integrity of these sites.

## 3.0 HRA Stage 2 Appropriate Assessment

### 3.1 Further assessment of recreation impacts

#### 3.1.1 Predicted Impacts

According to the letter from SLR to NE dated 18<sup>th</sup> October 2019, of the 53 'households proposed, around 26% of those are likely to own a dog<sup>1</sup> which equates to 14 additional dogs



in the neighbourhood. The nearest area of semi-natural habitat likely to be used by walkers and dog walkers lies 67 metres to the south of the development in the form of Prees Heath SSSI and Nature Reserve. Of these additional 14 animals, a lesser number would be walked across the SSSI/LNR, with some owners choosing not to cross the busy A49 road (at this point not a dual carriageway), instead preferring other routes. A public footpath lies immediately to the west of the development with direct access from the development. The Prees Heath SSSI and nature reserve is advertised on the internet by Shropshire Wildlife Trust and Butterfly Conservation, including advice on where to park cars during a visit.

Although the development lies 1.3km from Brown Moss as the crow flies, it would be c. 4.5km by car journey due to the presence of a dual carriage way and central reservation across the access road to the development. Anyone wanting to access pedestrian routes to Brown Moss would have to cross the A49 where it is dual carriageway and with a central reservation. In view of the small number of additional animals and the likelihood of them being walked locally, there would be no likely significant effect on the international sites at Brown Moss alone. However, there would be small residual effect in combination with other plans and projects for house building without mitigation measures.

1 Statista Website. <https://www.statista.com/statistics/308218/leading-ten-pets-ranked-by-household-ownership-in-the-united-kingdom-uk/> Accessed 8th August 2019.

### 3.1.3 Counteracting (mitigation) measures

In order to protect the Prees Heath SSSI, the agent's ecologist has been in contact Mr John Davies, Head of Reserves for the Butterfly Conservation Trust (managers of the SSSI and wider common) to find out how the development can assist them in completing projects set out in their draft management plan. Mr Davies has indicated by email that a contribution of £3,500 would support the draft management plan for the site, addressing indirect impacts through education for visitors and controlling/directing them to less sensitive areas (where the benches will be placed) and enhancement of bird nesting facilities. It is suggested the money would fund:

- Upgrading of two reserve information panels
- Reprinting with minor amendments the reserve leaflet highlighting new access points
- Provision of an additional reserve leaflet box
- Provision of two green oak backless benches on the reserve
- Provision of two raptor bird boxes

The developer has included a dog waste bin on the public open space on the development site, the open space now been increased in size to 2000 m<sup>2</sup>, with the number of homes reduced to 48. A commuted sum for open space provision of £147,927 will be provided to cover the shortfall in public open space but it is not clear if this will be used within the Zone of Influence of Brown Moss. A dog waste bin has also been included adjacent to the footpath link heading west from the site, to encourage dog walkers to use the footpaths in this area too (away from the SSSI). In addition, they are prepared to include leaflets educating people about their impacts on the SSSI and things to do to minimise this in the

home owners' packs and that a condition to this effect should be attached to any planning permission.

### 3.1.4 Residual impacts and conclusions

In view of the small number of additional dogs predicted as a result of the development, the distance to Brown Moss and the much nearer availability of local footpaths and the Prees Heath Nature Reserve, there would be no adverse impact on Brown Moss as a result of the development alone. The additional visitor information and facilities provided by the development in relation to the nearby nature reserve and footpaths, together with information in homeowners packs is likely to remove any residual impacts on Brown Moss as a result of the development by encouraging new residents and existing ones to responsibly use the Prees Heath Nature Reserve, removing any additional impacts on Brown Moss in-combination.

### 3.4 Securing of mitigation measures

To secure the mitigation measures, for the lifetime of the development, the following items are proposed for inclusion in a Section 106 agreement:

- Provision of two dog bins one adjacent to the footpath link in the west of the site and the other in the POS, close to the entrance to the site in the east.
- A means of securing maintenance of the dog bins, or replacement as necessary, for the lifetime of the development.
- A means of securing the emptying of the dog bins at a suitable frequency, for the lifetime of the development.
- Transfer of the payment to the Butterfly Conservation Trust to manage indirect effects.
- Provision of leaflets educating people about their impacts on the SSSI and things to do to minimise this in the homeowners' packs.

## 4.0 Summary of HRA Screening Appropriate Assessment including counteracting measures

The appropriate assessment of the project has been carried out, including counteracting (mitigation) measures and conditions and legal agreements have been agreed with the applicant.

**Table 4 – Summary of HRA conclusions**

EU Site	Effect pathway	HRA conclusion
Brown Moss SAC	<ul style="list-style-type: none"> <li>• Increased nutrients derived from dog faeces and urine damaging nutrient poor habitats and the dependant <i>Luronium natans</i></li> </ul>	No adverse effect on site integrity alone or in-combination.

	<ul style="list-style-type: none"> <li>• Increased physical damage to habitats through walkers and dogs, including swimming in the water.</li> <li>• Increased risk of introducing invasive species, via footwear, equipment and dogs.</li> <li>• The above potential impacts compromising the 'restore' objective.</li> </ul>	
Midlands Meres and Mosses Ramsar Site Phase 2	As above.	No adverse effect on site integrity alone or in-combination.

## 5.0 Final conclusions

Following Stage 1 screening, Shropshire Council concluded that the proposed development is likely to cause significant effects on the Brown Moss SAC and Midlands Meres and Mosses Ramsar Site Phase 2 in combination with other plans or projects, through the listed pathways detailed in this HRA. Shropshire Council has carried out an Appropriate Assessment of the project, considering further information and counteracting (mitigation) measures.

The Appropriate Assessment concludes that the proposed works under planning application No 19/02203/FUL Land Adjacent To Golf House Lane, Prees Heath, will not adversely affect the integrity of the Brown Moss SAC and Midlands Meres and Mosses Ramsar Site Phase 2, either alone or in-combination with other plans or projects, providing the development is carried out according to the details submitted, and any legal undertakings and the conditions detailed above are placed on the decision notice. A planning decision can be made on this basis.

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Committee and Date

Northern Planning Committee

10<sup>th</sup> November 2020

Item

8

Public

## Development Management Report

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

### SCHEDULE OF APPEALS AS AT COMMITTEE 10<sup>th</sup> November 2020

#### Appeals Lodged

<b>LPA reference</b>	20/01043/OUT
<b>Appeal against</b>	Refusal
<b>Committee or Del. Decision</b>	Delegated
<b>Appellant</b>	Mrs J Murphy
<b>Proposal</b>	Residential development
<b>Location</b>	Land to the North of Hollins Lane Tilstock
<b>Date of appeal</b>	24.08.2020
<b>Appeal method</b>	Written Representations
<b>Date site visit</b>	
<b>Date of appeal decision</b>	
<b>Costs awarded</b>	
<b>Appeal decision</b>	

<b>LPA reference</b>	19/04631/FUL
<b>Appeal against</b>	Refusal
<b>Committee or Del. Decision</b>	Delegated
<b>Appellant</b>	Mr & Ms J & C Start & Bayliss
<b>Proposal</b>	Erection of a rural occupational dwelling with detached garage and formation of driveway
<b>Location</b>	The Stables Booley Road Stanton Upon Hine Heath
<b>Date of appeal</b>	27.08.2020
<b>Appeal method</b>	Hearing
<b>Date site visit</b>	
<b>Date of appeal decision</b>	
<b>Costs awarded</b>	
<b>Appeal decision</b>	

<b>LPA reference</b>	20/02185/OUT
<b>Appeal against</b>	Appeal Against Refusal
<b>Committee or Del. Decision</b>	Delegated Decision
<b>Appellant</b>	Mr & Mrs C Evans
<b>Proposal</b>	Outline application (access for consideration) for the erection of one dwelling to include amendments to existing vehicular access and the removal of trees
<b>Location</b>	Proposed Dwelling East Of The Dog In The Lane Astley Shrewsbury
<b>Date of appeal</b>	02.09.2020
<b>Appeal method</b>	Written Representations
<b>Date site visit</b>	
<b>Date of appeal decision</b>	
<b>Costs awarded</b>	
<b>Appeal decision</b>	

**Appeals Determined**

<b>LPA reference</b>	20/02811/PAPD
<b>Appeal against</b>	Refusal
<b>Committee or Del. Decision</b>	Delegated
<b>Appellant</b>	Mrs Caroline Beasley
<b>Proposal</b>	Excavation and creation of land to form a farm reservoir
<b>Location</b>	Abbotsmoor Farm Haughton West Felton
<b>Date of appeal</b>	28.05.2020
<b>Appeal method</b>	Written Representations
<b>Date site visit</b>	
<b>Date of appeal decision</b>	19.10.2020
<b>Costs awarded</b>	Yes
<b>Appeal decision</b>	<b>Allowed</b>

<b>LPA reference</b>	19/04787/FUL
<b>Appeal against</b>	Refusal
<b>Committee or Del. Decision</b>	Delegated
<b>Appellant</b>	Mr And Mrs DM And JR Parry
<b>Proposal</b>	Change of use of land from agricultural to tourism use for the siting of four shepherds huts, construction of vehicular parking and all associated works
<b>Location</b>	Coedygaer, Llansillin
<b>Date of appeal</b>	23.06.2020
<b>Appeal method</b>	Written Representations
<b>Date site visit</b>	
<b>Date of appeal decision</b>	14.09.2020
<b>Costs awarded</b>	
<b>Appeal decision</b>	<b>Dismissed</b>

<b>LPA reference</b>	19/05448/FUL
<b>Appeal against</b>	Appeal Against Refusal
<b>Committee or Del. Decision</b>	Delegated Decision
<b>Appellant</b>	Mr C Goode
<b>Proposal</b>	Erection of a single detached dwelling
<b>Location</b>	Land SW Of Long Meadow 127B Longmeadow Drive Shrewsbury
<b>Date of appeal</b>	02.03.2020
<b>Appeal method</b>	Written Representations
<b>Date site visit</b>	08.10.2020
<b>Date of appeal decision</b>	19.10.2020
<b>Costs awarded</b>	
<b>Appeal decision</b>	<b>ALLOWED</b>

<b>LPA reference</b>	19/04814/DSA106
<b>Appeal against</b>	Refused to Discharge Planning Obligation
<b>Committee or Del. Decision</b>	Delegated
<b>Appellant</b>	Fiona Johnson
<b>Proposal</b>	Discharge of S106 agreement attached to planning permission reference 12/01289/FUL
<b>Location</b>	The Old Chapel 71 Shropshire Street Market Drayton
<b>Date of appeal</b>	05.08.2020
<b>Appeal method</b>	Written Representations
<b>Date site visit</b>	09.09.2020
<b>Date of appeal decision</b>	16.10.2020
<b>Costs awarded</b>	
<b>Appeal decision</b>	<b>DISMISSED</b>

<b>LPA reference</b>	20/01357/FUL
<b>Appeal against</b>	Refusal
<b>Committee or Del. Decision</b>	Delegated
<b>Appellant</b>	Mr S Croft
<b>Proposal</b>	Alterations in association with conversion of existing detached cart shed into 1No residential dwelling
<b>Location</b>	Proposed Dwelling East Of 14 Myddlewood Myddle Shrewsbury
<b>Date of appeal</b>	02.09.2020
<b>Appeal method</b>	Written Representations
<b>Date site visit</b>	
<b>Date of appeal decision</b>	30.10.2020
<b>Costs awarded</b>	
<b>Appeal decision</b>	<b>Dismissed</b>

<b>LPA reference</b>	20/01600/FUL
<b>Appeal against</b>	Refusal
<b>Committee or Del. Decision</b>	Delegated
<b>Appellant</b>	Mr Julian Jones
<b>Proposal</b>	Erection of first floor rear extension
<b>Location</b>	Nesscliffe House The Cross West Felton
<b>Date of appeal</b>	22.09.2020
<b>Appeal method</b>	Written Representations
<b>Date site visit</b>	
<b>Date of appeal decision</b>	02.11.2020
<b>Costs awarded</b>	
<b>Appeal decision</b>	<b>Dismissed</b>





## Appeal Decision

Site visit made on 13 October 2020

**by Robert Hitchcock BSc DipCD MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 19 October 2020

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### Appeal Ref: APP/L3245/W/20/3250951

### Abbotsmoor Farm, Cefn-Y-Wern Junction to Haughton Farm Junction, Haughton, West Felton SY11 4HF

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant approval required under Article 3(1) and Schedule 2, Part 6 Class A of the Town and Country Planning (General Permitted Development) Order 2015.
- The appeal is made by JC & MW Suckley against the decision of Shropshire Council.
- The application Ref 20/01092/AGR, dated 10 March 2020, was refused by notice dated 8 April 2020.
- The development proposed is the excavation and creation of land to form a farm reservoir.

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### Decision

1. The appeal is allowed and approval is granted under the provisions of Article 3(1) and Schedule 2, Part 6 Class A of the Town and Country Planning (General Permitted Development) Order 2015 (the GPDO) for the excavation and creation of land to form a farm reservoir at Abbotsmoor Farm, Cefn-Y-Wern Junction to Haughton Farm Junction, Haughton, West Felton SY11 4HF, in accordance with the terms of application Ref 20/01092/AGR, dated 10 March 2020, and the plans submitted with it.

### Application for costs

2. An application for costs was made by JC & MW Suckley against Shropshire Council. This application is the subject of a separate Decision.

### Procedural Matters

3. The application for determination as to whether prior approval was required for the siting of an excavation and deposit of material was made under Schedule 2, Part 6, Class A of the GPDO (as amended). The proposed development is the formation of a reservoir to irrigate crops on an agricultural holding through the excavation and deposit of material on the land.
4. The prior approval procedure as set out under Schedule 2, Part 6, Class A of the GPDO makes no provision for any determination to be made as to whether the proposal would be permitted development. My decision in this appeal, therefore, does not purport to confirm whether or not the proposal would constitute development of a description falling within Part 6 of the GPDO. To that end, it is open to the appellant to apply for a determination under s192 of the Town and Country Planning Act 1990 and my determination of this appeal under s78 does not affect the issuing of a determination under s192 regardless of the outcome of this appeal.

5. Paragraph A.2(2) of the GPDO requires, amongst other things, that a determination be made as to whether the prior approval of the authority will be required as to the siting of the excavation or deposit.

### **Main Issue**

6. The main issue is whether or not the development proposed is appropriate in regard to its siting.

### **Reasons**

7. The appeal site forms part of an agricultural holding set within a rolling agricultural landscape of primarily arable fields divided by hedges and tree lines. The proposed location of the reservoir is in close proximity to 2 existing ponds formed from excavations surrounded by mounds. Some of the holding's buildings are nearby and therefore the location appears practical from an operational perspective.
8. The site is also close to a biogas energy generation site which accommodates buildings, a slurry bed and large storage clamps. These features are, in part, bordered by mounded embankments of a similar height to those proposed about the reservoir.
9. In a context of other manmade waterbodies and mounds, the reservoir would not appear at odds with the character of development in the locality. Furthermore, the site would benefit from partial screening by existing trees close to the northern edges of the proposal. This would limit clear views of the development from those aspects. Views from the nearest public roads to the south would be over some distance such that it would be seen in the wider landscape context and within a group of similar development. It would there assimilate with the character and appearance of development in the locality.
10. The Council's statement, including reference to a previously refused application ref. 20/00271/AGR, has not suggested that there are other reasons for concern in respect of the proposed siting. Whilst West Felton Parish Council have indicated that the site lies close to an aerodrome and would be visible from a public footpath, there is little evidence to suggest either of these aspects would cause the proposed siting to be inappropriate in its context or lead to significant planning harm.

### **Conditions**

11. Any planning permission granted under the GPDO is subject to the condition at paragraph A.2(2) that development shall be carried out in accordance with the details approved and within a period of 5 years from the date on which the application was submitted to the local planning authority. Based on the details submitted on the application form and plans, there is no reason for me to attach any further planning conditions relating to the development.

### **Conclusion**

12. For the above reasons, the appeal should be allowed.

*R Hitchcock*

INSPECTOR



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## Costs Decision

Site visit made on 13 October 2020

**by Robert Hitchcock BSc DipCD MRTPI**

an Inspector appointed by the Secretary of State

**Decision date: 19 October 2020**

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### **Costs application in relation to Appeal Ref: APP/L3245/W/20/3250951 Abbotsmoor Farm, Cefn-Y-Wern Junction to Haughton Farm Junction, Haughton, West Felton SY11 4HF**

- 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 JC and MW Suckley for a full award of costs against Shropshire Council.
  - The appeal was against a refusal to grant approval required under a development order for the excavation and creation of land to form a farm reservoir.
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### **Decision**

1. The application for a full award of costs is allowed in the terms set out below.

### **Reasons**

2. Paragraph 30 of the Government's Planning Practice Guidance (PPG) advises that, irrespective of the outcome of an appeal, costs may be awarded where a party has behaved unreasonably, and that unreasonable behaviour has directly caused another party to incur unnecessary or wasted expense in the appeal process. Unreasonable behaviour in the context of an application for an award of costs may be either: procedural – relating to the process; or substantive – relating to the issues arising from the merits of the appeal.
3. The basis for the claim is that the applicant considers that the Council refused to consider the detail of siting for an application for prior notification under Schedule 2, Part 6, Class A of the Town and Country Planning (General Permitted Development) (England) Order 2015 (GPDO) because they misapplied an exclusion criteria in the use of that procedure, and determined the application in an inconsistent manner with other similar proposals.
4. As set out in my decision, the prior approval procedure for agricultural development as defined under Schedule 2, Part 6, Class A of the GPDO makes no provision for any determination to be made as to whether the proposal would be permitted development. In the case of an excavation, only the details of siting are up for consideration by the Council.
5. The options for the Council, as set out in Part 6, provide only for the outcomes that prior notification is necessary, or it is not. Only if notification within 28 days of receipt of an application by the Council of a determination that prior notification is required is received by the applicant, is the Council able to refuse the detail of siting.
6. I acknowledge that the Council took advice on the matter of A.1 (e) of Class A, however, as with my remit in the determination of the appeal, the matters

within the scope of the prior notification procedure are strictly limited. Accordingly, whilst the appellant's basis for the application of costs refers to the interpretation of criteria A.1 (e) of Class A, it was not open to the Council to determine the application in the manner it did. Although it is not unreasonable to make an assessment of the qualifying criteria under Class A of Part 6 and come to an opinion on them, for the reasons set out above, the Council has misdirected itself in its determination. The Council's approach was therefore procedurally incorrect.

7. I note that the applicant had made a previous application to obtain prior approval for a larger reservoir in the lead up to the application subject of the appeal and this had a similar outcome. Although, the Council advised that a planning application should be submitted for the proposed development, and it was also open to the applicant to seek a determination under s192 of the Town and Country Planning Act 1990, these procedures incur greater time and financial costs.
8. The fact that the proposal was reduced in area within the second application did not overcome one of the Council's previously stated concerns, however, the approach by the applicant was not a procedurally incorrect one and it had the effect of reducing the matters of contention. It was also made in the light of previous decisions by the Council for similarly sized reservoirs thus giving an expectation that the substantive matters were consistent with the prior approval of other comparable development.
9. Taking all of the above matters into consideration, I find the unreasonable behaviour arising from the Council's procedural error is contrary to the guidance in the PPG and the appellant has been consequently faced with the unnecessary expense of lodging the appeal.
10. For the above reasons an award of costs is justified.

### **Costs Order**

11. In exercise of the powers under section 250(5) of the Local Government Act 1972 and Schedule 6 of the Town and Country Planning Act 1990 as amended, and all other enabling powers in that behalf, IT IS HEREBY ORDERED that the Shropshire Council shall pay to JC and MW Suckley the costs of the appeal proceedings described in the heading of this decision.
12. The applicant is now invited to submit to the Council, to whom a copy of this decision has been sent, details of those costs with a view to reaching agreement as to the amount.

*R Hitchcock*

INSPECTOR



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## Appeal Decision

Site visit made on 25 August 2020

**by Thomas Hatfield BA (Hons) MA MRTPI**

**an Inspector appointed by the Secretary of State**

**Decision date: 14<sup>th</sup> September 2020**

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**Appeal Ref: APP/L3245/W/20/3253157**

**Coedygaer, Llansilin, SY10 9BU**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
  - The appeal is made by Mr and Mrs DM & JR Parry against the decision of Shropshire Council.
  - The application Ref 19/04787/FUL, dated 28 October 2019, was refused by notice dated 13 December 2019.
  - The development proposed is described as "*change of use of land from agricultural to tourism use for the siting of four shepherds huts, construction of vehicular parking and all associated works*".
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### Decision

1. The appeal is dismissed.

### Main Issue

2. The main issue is whether the development would be in a suitable location for visitor accommodation with regard to its accessibility to services and facilities, and the provisions of the development plan.

### Reasons

3. Policy CS16 of the Shropshire Core Strategy (2011) encourages the development of visitor accommodation "*in accessible locations served by a range of services and facilities*". It further states that in rural areas, proposals must be "*close to or within settlements*".
4. The appeal site is a small field within the open countryside that is currently used for grazing. It is approximately 1.5 miles from the nearest settlement of Llansilin, and approximately 3.1 miles from the settlement of Trefonen. However, the services and facilities in those settlements are limited, and visitors would therefore need to make longer journeys to Oswestry in order to access a good range of amenities. Moreover, the route to Llansilin and Trefonen is along narrow, steep and winding lanes with no street lighting or footways. These are not attractive pedestrian routes, especially in poor light, which would discourage walking to those settlements. In my view, the appeal site is in a fairly remote location and visitors to the site would be heavily reliant on the use of a car or other vehicle.

5. My attention has been drawn to a recent allowed appeal decision<sup>1</sup> that also related to new visitor accommodation in Shropshire. However, that site was located only half a mile from the market town of Much Wenlock, which contains a range of services and facilities. That is not the case here. Conversely, the Council has highlighted a recent dismissed appeal decision<sup>2</sup> for visitor accommodation just a short distance from the appeal site. That Inspector concluded that the proposal would be contrary to Policy CS16 due to its location.
6. My attention has also been drawn to a number of recent approvals granted by the Council for new visitor accommodation. However, the full details of those cases are not before me and so I am unable to assess any direct comparability to the current proposal. In any event, I have come to my own view on this matter, rather than relying on the approach the Council may have taken elsewhere.
7. For the above reasons, I conclude that the development would not be in a suitable location for visitor accommodation with regard to its accessibility to services and facilities, and the provisions of the development plan. It would therefore be contrary to Policy CS16 of the Shropshire Core Strategy (2011). This policy seeks to ensure, amongst other things, that new visitor accommodation is accessible to services and facilities.
8. The Decision Notice also refers to Policy CS17 of the Core Strategy and Policy MD2 of the Shropshire Site Allocations and Management of Development ('SAMDev') Plan (2015). However, these policies relate to environmental networks and design and so are not directly relevant to the reason for refusal. In addition, Policy CS6 refers to "*proposals likely to generate significant levels of traffic*", which would not be the case here.

### **Other Matters**

9. Policy CS5 of the Core Strategy provides support for small-scale new economic development that diversifies the rural economy, including small scale farm diversification schemes. However, Policy CS5 also states that rural tourism and leisure proposals should accord with Policy CS16. For the reasons set out above, that would not be the case here.
10. Whilst Policy MD11 is generally supportive of new visitor accommodation, it also states that this is subject to the requirements of Policy CS16. Moreover, any support provided by Policy CS6 in relation to climate change and health and wellbeing is tenuous in my view. However, even if I had come to a different view on this matter, the development would still be contrary to the development plan overall, given the clear conflict with the Policy CS16.
11. Whilst not a reason for refusal, the Council expressed concern regarding the impact of the development on the landscape. In this regard, the development would be positioned next to a public footpath and would be prominent in views along it. The creation of the proposed car parking area would also be likely to require some excavation given the level changes, and parked cars would be positioned next to the footpath. This would significantly alter the pleasant rural character of site and its surroundings. Moreover, the screening provided by trees and bushes around the site edge would reduce in winter months, and it

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<sup>1</sup> APP/L3245/W/18/3195876

<sup>2</sup> APP/L3245/W/18/3218574

would be visible in longer views from the surrounding area. In my view, there would be some harm to the landscape and the character of the countryside arising from the proposal.

12. The Inspector for appeal Ref APP/L3245/W/18/3195876 referred to there being some evidence of unmet and ongoing demand for visitor accommodation in Shropshire. I see no reason to depart from that view.

### **Conclusion**

13. As set out above, the development would have poor accessibility to services and facilities and would be contrary to the development plan in this regard. It would also cause some harm to the character and appearance of the countryside.
14. Set against this, the development would provide an additional stream of income to the farm business and would provide some support to local businesses and the Shropshire visitor economy. It would also generate economic benefits during the construction phase.
15. On balance however, I do not consider that these benefits outweigh the harm associated with the development, including the conflict with Policy CS16. Accordingly, the material considerations in this case do not indicate that the proposal should be determined other than in accordance with the development plan.
16. For the reasons given above I conclude that the appeal should be dismissed.

*Thomas Hatfield*

INSPECTOR

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## Appeal Decision

Site visit made on 9 September 2020

by **M Shrigley BSc (Hons) MPlan MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 16 October 2020

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**Appeal Ref: APP/L3245/Q/20/3254363**

**The Old Chapel, 71 Shropshire Street, Market Drayton TF9 3DQ**

- The appeal is made under Section 106B of the Town and Country Planning Act 1990 against a refusal to discharge a planning obligation.
  - The appeal is made by Miss Fiona Johnson against the decision of Shropshire Council.
  - The development to which the planning obligation relates is the conversion of the building to a single dwelling.
  - The planning obligation, dated 5 April 2013, was made between Shropshire Council and Brendan Ignatius Mark Champ under planning application reference number 12/01289/FUL.
  - The application Ref 19/04814/DSA106, dated 29 October 2019, was refused by notice dated 18 December 2019.
  - The application sought to have the planning obligation discharged.
- 

### Decision

1. The appeal is dismissed.

### Background and Main Issue

2. The Second Schedule of the obligation states that the owner shall within 60 days of the commencement of a material operation of the development in accordance with section 56(4) of the Act pay to the Council the sum of £7,722 as an Affordable Housing Payment (AHP) to be used by the Council to facilitate the delivery of additional affordable and/or supported housing elsewhere in the Council's administrative area.
3. The main issue is whether the planning obligation still serves a useful purpose.

### Reasons

4. The Council contend that the commuted sum specified within the obligation is still required to pay for affordable housing provision needed within the conurbation. This position reflects the advice of the Council's affordable housing officer indicating a current need within the Market Drayton area for affordable housing, with 244 households currently on the register for such provision. The appellant does not dispute this identified need.
5. It remains the case that the money to be procured through the obligation would be spent on local affordable housing benefiting the area as the original basis for it being entered into. The obligation therefore retains a useful purpose as the heart of the issue.
6. I acknowledge the circumstances following the appellant becoming the landowner of the site which include: that the cost of the conversion scheme

exceeded the amount originally budgeted for and as a result it was not possible to pay the contribution; financial hardship; difficulties in obtaining advice about the s106 payment and that a timely invoice was not issued requesting the amount; that the conversion of the building has led to benefit in terms of the provision of a dwelling and the re-use of a local building inclusive of its historic value; she is not presently able to pay the amount. As well as negotiations for instalment payments leading up to the appeal which have been unsuccessful.

7. However, none of these are determinative points of my decision. Planning obligations run with the land and the appellant was aware of the agreement when the site was purchased. Viability issues are not a matter before me and there is no substantive evidence demonstrating parties agreed to waver payment before the trigger point specified in the s106 or following completion of the development.
8. I also note that the appellant has raised changes arising from ministerial advice, rulings<sup>1</sup> and national policy and the therefore related statutory tests set out in regulation 122 of the Community Infrastructure Levy Regulations 2010. But the agreement has become binding.
9. I appreciate that there may be other schemes where an affordable housing contribution has not been requested but it does not alter the status of a binding agreement affecting the appeal property which enables a contribution towards alleviating an existing unmet need.
10. Accordingly, I conclude that the planning obligation should not be discharged.

### **Conclusion**

11. For the reasons given above I dismiss the appeal.

*M Shrigley*

INSPECTOR

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<sup>1</sup> Written Ministerial Statement's dated 28 November 2014 & 2 March 2015

<sup>1</sup> Secretary of State for Communities and Local Government v West Berkshire District Council & Reading Borough Council [2016] EWCA Civ 441



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## Appeal Decision

Site visit made on 8 October 2020

by **S Harley BSc(Hons) MPhil MRTPI ARICS**

an Inspector appointed by the Secretary of State

Decision date: 19 October 2020

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**Appeal Ref: APP/L3245/W/20/3248140**

**Land to rear of Long Meadow Barn, Long Meadow Drive, Abbey Foregate, Shrewsbury SY2 6NA**

- 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 C Goode against the decision of Shropshire Council.
  - The application Ref 19/05448/FUL, dated 12 December 2019, was refused by notice dated 3 February 2020.
  - The development proposed is a dwelling to the rear of Long Meadow Barn.
- 

### Decision

1. The appeal is allowed and planning permission is granted for a dwelling on land to the rear of Long Meadow Barn, Long Meadow Drive, Abbey Foregate, Shrewsbury SY2 6NA in accordance with the terms of the application Ref 19/05448/FUL, dated 12 December 2019, and the plans submitted with it subject to the conditions set out in the attached Schedule.

### Preliminary Matters

2. The appeal site visit was delayed due to travel restrictions imposed in relation to the Covid 19 pandemic.
3. Although the site location is described on the planning application form as set out above, it is clear that the appeal site is to the rear of both Long Meadow Barn and Pear Tree Cottage. I have considered the appeal on this basis.

### Main Issues

4. The main issue is the effect of the proposed development on the setting of nearby listed buildings and on the character or appearance of the area.

### Reasons

5. I am required to have special regard to the desirability of preserving a listed building or its setting, or any features of special architectural or historic interest which it possesses, and to preserving or enhancing the character or appearance of a conservation area<sup>1</sup>.
6. The appeal site is in the Abbey Foregate Special Character Area (the AFSCA). This is one of the special character areas reflecting different periods of the town centre's development. Together these create the overall historic character and significance of the Shrewsbury Conservation Area (the CA). Abbey

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<sup>1</sup> Section 66 and 72 of the Planning (Listed Building and Conservation Areas) Act 1990

Foregate has formed the principal approach to the town from the east since the foundation of the Abbey in 1083. As the town grew, development spread out along the main road leading eastwards from the Abbey. Overall the AFSCA contains a variety of land uses with a diverse range of building types and styles developed in an ad hoc way over an extensive period of time.

7. Long Meadow Drive, a narrow private drive serving a small enclave of dwellings, leads off Abbey Foregate. The appeal site is behind the rear gardens of Long Meadow Barn and Pear Tree Cottage, which are Grade II Listed Buildings. Brierly House, Chaddeslode House and Nos 129 and 131 Abbey Foregate are also Grade II Listed Buildings: due to their distance from the appeal site and intervening properties there would be no effect on these or the settings in which they are experienced.
8. Long Meadow Barn and Pear Tree Cottage were formerly a barn with an attached cottage which, together, were listed in 1972 after the barn was converted to a dwelling. The timber framed building probably has late 17<sup>th</sup> century origins with possibly some timbers from an earlier building on the site. Some of the building's significance derives from its architecture and historic fabric although parts of the building have been renewed at various times. Listed Building Consent and planning permission have recently been given for works including replacement of windows. The appeal proposal would not affect the architectural interest of the historic fabric of the building.
9. The appeal site is within the setting of Long Meadow Barn and Pear Tree Cottage as it adjoins their rear boundaries. An old photograph and the 1840 tithe map show the historic significance as a relatively isolated agricultural building with a rural outlook enclosed, at least some of the time, by open railings/wire fencing. However, this former setting has been eroded by the loss of the open agricultural land, the conversion to residential use with the associated domestic paraphernalia, and the presence of dwellings around it. Moreover, the installation of domestic style windows further erodes any agricultural association arising from the appearance of the building.
10. Long Meadow Barn and Pear Tree Cottage are now experienced as dwellings with enclosed gardens mainly surrounded by houses, including No 129A Abbey Foregate, Mill Race Cottage and other houses on Long Meadow Drive, rather than as an isolated agricultural building. The appeal site is the exception as an open, mainly grassed, area. It was part of a former open field which became part of the garden of Long Meadow Barn, possibly in the later 20<sup>th</sup> century. The extent to which all, or part, of the appeal site has been associated with Long Meadow Barn and Pear Tree Cottage appears to have fluctuated over time as indicated on OS Maps included in the Heritage Impact Assessment. Nor is the map associated with the List Entry part of the official record of the listed building as the listing pre-dates 4 April 2011. For these reasons I give little weight to the association of the appeal site with Long Meadow Barn and Pear Tree Cottage in terms of how their significance is appreciated.
11. Mature landscaping is a feature of this part of the town, particularly to the rear of the built form. The AFSCA borders on the Rea Brook Valley, a significant green corridor and Local Nature Reserve. The appeal site slopes down to the boundary of a wooded area beyond which is the Rea Brook. These form part of the mature landscaped setting of the town. However, the landscaped setting in the immediate vicinity includes the gardens of houses. In principle a house in a

garden would, therefore, not be out of character and would in this respect, not be dissimilar to the two permitted<sup>2</sup> but not yet constructed houses referred to as Plots one and two, in the wooded area beyond the appeal site.

12. The appeal site is large enough to contain a dwelling with car-parking spaces and garden all around and would not be significantly smaller or more cramped compared to other properties on Long Meadow Drive. The rear part of the appeal site overlaps to a small extent with the proposed garden at Plot one. In this particular case I consider the position of the shared garden boundary would cause no material harm to openness or the effect on the landscape setting of the settlement.
13. The National Planning Policy Framework (the Framework) and the Historic England "the Setting of Heritage Assets" Good Practice Advice in Planning Note 3, recognise that the surroundings in which a heritage asset exists is not fixed, and may change as the asset and its surroundings evolve. In this case the historic agricultural/rural association has already been lost by cumulative changes that have taken place, whether or not the current fencing is unauthorised. The proposed dwelling would be closer to Long Meadow Barn and Pear Tree Cottage, and higher up the slope, than the dwellings permitted at Plots one and two. However, it would be set into the slope, still at a much lower land level than the listed building, and would have a sedum roof. This means the proposed dwelling would not be obtrusive in relation to the Listed Building.
14. Exercising my planning judgement I conclude the proposal would not be overly cramped. It would have a neutral effect on the significance of Long Meadow Barn and Pear Tree Cottage, other nearby listed buildings, on the character and appearance of the CA, and how these heritage assets are experienced. Nor would it harm the Rea Brook Valley open space due to the distance separating them. The contemporary mono-pitch design would continue the tradition of different styles over time and would be in keeping with the permitted low profile split level dwellings to the rear of the appeal site. Moreover, the associated proposal to replace the concrete post fencing on the eastern site boundary adjacent to Mill Race Cottage would improve the character and appearance of the CA.
15. For the reasons set out above I conclude that the proposed development would be acceptable in terms of the setting of nearby listed buildings and the character or appearance of the area. Accordingly I find no conflict with the legislation, Policies CS6 and CS17 of the Shropshire Core Strategy 2011, Policies MD2 and MD13 of the Site Allocations and Management of Development (SAMDev) Plan 2015, the principles of the Framework or the advice of Historic England all of which seek, amongst other things, to ensure high quality design and that, wherever possible, harm or loss of significance to historic assets including their setting is avoided.

### **Other Matters**

16. This appeal site is a different parcel of land to that which was refused planning permission for three dwellings at appeal in 2017<sup>3</sup>. Accordingly, that appeal decision does not set a precedent for the appeal before me.

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<sup>2</sup>Refs 18/03663/FUL and 19/01060/FUL

<sup>3</sup> APP/L3245/W/16/3160708

17. Parking for the proposed dwelling would be served off the existing narrow private drive and the proposal would allow for vehicles to enter and exit the appeal site in a forward gear. Whilst I acknowledge the concerns raised by neighbours about the width of the drive and the lack of passing/turning spaces I note that the Highway Authority raises no objections subject to conditions. I acknowledge the development that has taken place in the area, or is permitted, but I consider the extra traffic generated by one additional dwelling would not create such a hazard as to justify withholding permission.
18. Concern has been expressed that the proposal would set a precedent for development elsewhere. However, each planning application and appeal must be considered on its own merits.

### **Conditions**

19. I have taken into account the Parties' observations on planning conditions and, where necessary, I have amended wording to more closely reflect the tests set out in the Framework and the Planning Practice Guidance.
20. As well as the standard condition specifying the time limits for the commencement of development compliance with the approved plans is necessary to provide certainty. Approval of external facing materials for the building and details of windows, doors and external joinery are necessary in the interests of the appearance of the area. A drainage scheme is necessary in the interests of public health and safety.
21. The implementation of the approved access drive and parking areas before first occupation and the submission and implementation of a Construction Traffic Management Plan before the commencement of development are necessary to minimise conflict with other users of the drive and the highway.
22. Implementation of the recommendations of the Ecological Appraisal by Greenscape Environmental, December 2019, including a final site visit to check the status of known badger setts in the area within four weeks prior to the development commencing and if needed, the provision of an appropriate mitigation strategy, are necessary to minimise the impact on protected species. Details of hard and soft landscape works, boundary treatments, existing and proposed levels across the site, and the implementation of the approved tree protection measures are required before the commencement of development to retain the character and appearance of the area and to maximise biodiversity. To ensure the provision of roosting and nesting opportunities the provision of boxes/nests is required.
23. Although the Framework indicates conditions should not be used to restrict national permitted development rights unless there is clear justification to do so, in this case it is necessary because of the levels across the site and the proximity of the listed building.

### **Conclusion**

24. For the reasons set out above I conclude that the appeal should be allowed.

*S Harley*

INSPECTOR



### Schedule of Conditions

- 1) The development hereby permitted shall begin not later than three years from the date of this decision.
- 2) The development hereby permitted shall be carried out in accordance with the following approved plans: 2186-01 Plot 3 Rev A and 2186-21-GA Rev B.
- 3) No development shall take place until full details of existing and proposed levels across the site and the finished levels, above ordnance datum, of the ground floor of the proposed building and the parking area and access drive, in relation to existing ground levels have been submitted to and approved in writing by the local planning authority. The development shall be carried out in accordance with the approved levels.
- 4) No development shall take place until a Construction Traffic Management Plan for all development traffic has been submitted to, and approved in writing by, the local planning authority. The Statement shall include as a minimum provision for:
  - a) the parking of vehicles of site operatives and visitors;
  - b) loading and unloading of plant and materials;
  - c) storage of plant and materials used in constructing the development;
  - d) wheel washing facilities.

The approved Plan shall be adhered to throughout the construction period.

- 5) In accordance with the recommendations of the Ecological Appraisal by Greenscape Environmental, December 2019 a qualified and experienced ecologist shall conduct a site visit to check the status of badger setts in the area within the four weeks prior to the development commencing, and the outcome shall be reported in writing to the Local Planning Authority. If new evidence of badgers is recorded during the pre-commencement survey then a mitigation strategy that sets out appropriate actions to be taken during the works shall be submitted to and approved in writing by the Local Planning Authority. The development shall be carried out in accordance with the approved mitigation strategy.
- 6) No development shall take place (including no ground works and vegetation clearance) until full details of both hard and soft landscape works have been submitted to and approved in writing by the Local Planning Authority. The plan shall include:
  - a) Planting plans, creation of wildlife habitats and features and ecological enhancements (e.g. integrated bat and bird boxes, hedgehog-friendly gravel boards and amphibian-friendly gully pots);
  - b) Written specifications (including cultivation and other operations associated with plant, grass and wildlife habitat establishment);
  - c) Schedules of plants, noting species (including scientific names), planting sizes and proposed numbers/densities where appropriate;

- d) Native species used are to be of local provenance (Shropshire or surrounding counties);
- e) Details of trees and hedgerows to be planted and to be retained;
- f) Details of proposed boundary treatments and existing to be retained;
- g) Details of the materials for all hard-surfaced areas;
- h) An implementation timetable.

The landscape works shall be carried out in full compliance with the approved plan, schedule and timescales. Any trees or plants that, within a period of five years after planting, are removed, die or become, in the opinion of the Local Planning Authority, seriously damaged or defective, shall upon written notification from the Local Planning Authority be replaced with others of species, size and number as originally approved, by the end of the first available planting season.

- 7) All site clearance and site development and landscaping shall occur strictly in accordance with of the Ecological Appraisal by Greenscape Environmental, December 2019 or in accordance with any revised ecological report that has been submitted to and approved by the Local Planning Authority.
- 8) All trees which are to be retained in accordance with the approved plan and shall be protected in accordance with the submitted Sylvan Resources Tree Protection Plan and Arboricultural Method Statement), and in accordance with BS 5837: 2012 'Trees in relation to Design, Demolition and Construction - Recommendations for tree protection'.

The protective fence shall be erected prior to commencing any development related activities on site, including ground levelling, site preparation or construction. The fence shall be maintained throughout the duration of the development and shall not be moved or removed without the prior written consent of the Local Planning Authority.
- 9) No above ground works shall commence until a scheme for 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 first occupied.
- 10) No above ground works shall commence until details of materials to be used in the construction of the external walls and roofs have been submitted to and approved in writing by the Local Planning Authority. The development shall be carried out in complete accordance with the approved details.
- 11) Prior to the commencement of the relevant work details of all external windows and doors and any other external joinery shall be submitted to and approved in writing by the Local Planning Authority. These shall include full size details, 1:20 sections and 1:20 elevations of each joinery item which shall then be indexed on elevations on the approved drawings. All doors, windows and external joinery shall be carried out in complete accordance with the approved details.
- 12) The dwelling hereby permitted shall not be occupied until the access drive and vehicle parking area have been fully implemented in accordance with



the approved plans. The access drive and parking area shall be retained for these uses only thereafter.

- 13) Prior to first occupation/use of the building, 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) A minimum of 1 external woodcrete bat box or integrated bat bricks, suitable for nursery or summer roosting for small crevice dwelling bat species.
  - b) A minimum of 2 artificial nests, of either integrated brick design or external box design, suitable for 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.

- 14) Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 2015 (or any order revoking and re-enacting that Order with or without modification), no development relating to schedule 2 part 1 class A class (enlargement, improvement or other alteration of a dwelling house), class B (the enlargement of a dwelling house consisting of an addition or alteration to its roof), class C (other alterations to the roof of a dwelling house) and class E (buildings incidental to the enjoyment of the dwelling house) shall be erected, constructed or carried out without first obtaining planning permission from the Local Planning Authority.

End of Schedule

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## Appeal Decision

Site visit made on 26 October 2020

by **David M H Rose BA(Hons) MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 30 October 2020

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**Appeal Ref: APP/L3245/W/20/3256910**

**14 Myddlewood, Myddle, Shrewsbury, SY4 3RY.**

- 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 S Croft against the decision of Shropshire Council.
  - The application reference 20/01357/FUL, dated 26 March 2020, was refused by notice dated 9 July 2020.
  - The development proposed is alterations in association with conversion of existing detached cart shed into a residential dwelling.
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### Decision

1. The appeal is dismissed.

### Preliminary Matter

2. I have considered the proposal on the basis of the revised access drawing 14MM/PP/03 revision A. This shows the relocation of an existing telephone distribution pole to provide unhindered vision at the junction of the private lane with the Class III road.

### Main Issue

3. The main issue is whether or not the appeal site is a suitable location for the proposed dwelling having regard to national and local policy.

### Reasons

4. The development plan, which comprises the Shropshire Council Core Strategy (CS) and the Shropshire Council Site Allocations and Management of Development (SAMDev) Plan, seeks to focus new development in Shrewsbury, the Market Towns, Key Centres, Community Hubs and Community Clusters.
5. SAMDev Policy MD3 indicates that, in addition to allocated housing sites, planning permission will also be granted for other ('windfall') sustainable housing development, including both brownfield and greenfield sites in the countryside, having regard to the policies of the Local Plan. It is clear that the amount of development in each settlement is to be regarded as a guideline and not as a ceiling. This is acknowledged in an appeal decision<sup>1</sup>, for a new dwelling in the settlement framework of a Community Hub, where the Inspector also attributed limited public benefit in terms of both the provision of housing and local economic and social benefits.

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<sup>1</sup> Appeal Ref: APP/L3245/W/19/3236850 Brickyard Farm, Poynton Road, Shawbury, Shrewsbury, SY4 4JR

6. The National Planning Policy Framework (Framework) also establishes a presumption in favour of sustainable development with reference to its economic, social and environmental dimensions.
7. Policy S17.2(ii) of the SAMDev indicates that modest growth will take place in the development boundaries of Myddle and Harmer Hill. It is agreed that the appeal site is in the countryside some 1.3 kilometres from Myddle.
8. CS Policy CS5 confirms that new development in the countryside will be strictly controlled. However, like the Framework, it accepts that development proposals on appropriate sites, which maintain and enhance countryside vitality and character, will be permitted where they improve the sustainability of rural communities by bringing local and economic benefits.
9. In turn, SAMDev Policy MD7a, whilst similarly restrictive, makes provision for the conversion of buildings to open market use where the building is of a design and form which is of merit for its heritage/landscape value. It is accepted that the appeal building is not a heritage asset.
10. In support of the appeal, it is said that the proposal is not in an isolated location. I agree, in that the site forms part of the curtilage of an established dwelling and it lies behind, albeit at some distance from, a roadside cluster of houses. At the same time, reference is made to paragraph 79 of the Framework with the claim that the scheme would amount to the subdivision of an existing dwelling. However, it has been established that paragraph 79 d) of the Framework should be taken to mean the conversion of an existing residential dwelling as one physical building rather than a wider residential unit encompassing other buildings<sup>2</sup>.
11. Further support is claimed by reference to paragraph 117 of the Framework regarding the use of previously developed land and buildings. I accept that the proposed dwelling would make use of an existing building, its design would be uncontentious and it would have no greater impact on its surroundings than the existing structure. I also consider that the works reasonably necessary to secure conversion would leave the floor area, mass and height of the building unchanged and conversion works could incorporate high levels of sustainability.
12. Moreover, the proposed dwelling would be located within part of an established domestic curtilage where, with the conditions suggested by the Council, future permitted development could be restricted. The erection of new buildings or structures within the adjacent paddock could also be controlled. I therefore agree that the proposal would have no tangible adverse impact on its surroundings and it would reflect the aims of the Framework in making effective use of land.
13. Drawing these considerations together, the appeal site lies within the open countryside. It is located outside of any settlement where the main focus of development is intended and it is some considerable distance from local services and facilities. It is also a building of no distinguishing merit. Although I acknowledge that development in rural areas will include locations which are some distance from services<sup>3</sup>, and lack choice of transport modes, the other

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<sup>2</sup> Wiltshire Council v SSHCLG & Mr W Howse [2020] EWHC 954 (Admin)

<sup>3</sup> The appellant makes reference to a number of examples in an Appendix to its Statement of Case

drawbacks that I have identified, individually and collectively, tell strongly against the proposal.

14. Set against this, the proposal would re-use an existing building without any perceptible environmental harm. However, the housing, social and economic benefits arising from the creation and occupation of an additional dwelling would be very limited.
15. I also note the appellant's long association with the area and the intimation that he may consider downsizing to the proposed dwelling. The application was also supported, in principle, by the Parish Council. Neither of these points adds material weight.
16. Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires development proposals to be determined in accordance with the development plan unless material considerations indicate otherwise. In this case, I consider that the proposal would be in conflict with the development plan, with particular reference to those policies which seek to guide the distribution and location of new housing development. The environmental, social and economic benefits arising, underpinned by the Framework, would not be sufficient to outweigh the overwhelming conflict with the development plan.
17. In conclusion, having considered all other matters raised, I find that the appeal site is not a suitable location for the proposed dwelling having regard to national and local policy.

*David MH Rose*

Inspector

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## Appeal Decision

Site visit made on 26 October 2020

by **David M H Rose BA(Hons) MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 2 November 2020

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**Appeal Ref: APP/L3245/D/20/3259153**

**Nesscliffe House, West Felton, Oswestry, Shropshire, SY11 4EH.**

- 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 Julian Jones against the decision of Shropshire Council.
  - The application reference 20/01600/FUL, dated 17 April 2020, was refused by notice dated 16 June 2020.
  - The development proposed is described by the appellant as 'First floor extension above existing ground floor structure to rear of and gable end of dwelling'.
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### Decision

1. The appeal is dismissed.

### Preliminary Matters

2. The appeal form identifies the date of the application to the Council as 16 April 2020. Whilst the certificate of ownership carries that date, the application itself is dated 17 April 2020. In addition, although the Council amended the description of the application to 'Erection of first floor rear extension', this was not adopted by the appellant.

### Main Issue

3. Whether the proposed extension would be visually unattractive and its effect on the street scene.

### Reasons

4. Nesscliffe House is a well-designed, attractively proportioned and characterful brick-built semi-detached dwelling, under a half-hipped roof, which stands close to Holyhead Road. Its single storey side and rear extension is deeply set-back from the principal façade and, even with its differing hipped roof construction, it appears respectful of, and subordinate to, the main house. It is noted that the wider surroundings lack coherent composition and character.
5. The proposed first floor extension would sit above the existing well-mannered addition and its two storey bulk would project significantly rearward of the main house with a very notable rise in eaves line above the rear 'cat-slide' roof. When viewed from the side (south-east), despite having a lower finished height than the ridge of the existing house, the extension would appear disturbingly dominant and the contrasting wide plane of the roof, alongside the half-hip, would be uncharacteristic and ambiguous in design. From the rear, the height

of the proposed extension, and the relationship with the existing roof of the house, would lack balance and harmony and would be seen to be obviously out of scale and proportion.

6. Although the extension has been designed to be subordinate when viewed directly from the road, when seen in the round it would be of anomalous and cumbersome bulk and height which would be visually unattractive. Whilst it might be said that the rear incongruity in design could not be experienced from public views, and a mature tree provides a measure of filtering from the south-east, the proposal would, nonetheless, have an adverse effect on the street scene.
7. I therefore find that the proposal, despite the intended high standard of construction in matching materials, would be in conflict with local and national policies which promote good design.
8. I have noted that the Council, reflecting the views of a neighbour, had concerns about possible overlooking of the adjoining garden from the proposed Juliet balcony serving one of the new bedrooms. To my mind, given the distance of the glazed doors from the common boundary, the oblique angle of vision and the nature of the boundary shrubbery, any resultant loss of privacy would not have been sufficient to add weight to my findings on the main issue.
9. Having considered all other matters raised, including support offered by the Parish Council at application stage, I find nothing to change my overall conclusion to dismiss the appeal.

*David MH Rose*

Inspector