

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

Date: Monday, 27 September 2021

Committee:
Southern Planning Committee

Date: Tuesday, 5 October 2021
Time: 2.00 pm
Venue: Shrewsbury/Oswestry Room, Shirehall, Abbey Foregate, Shrewsbury,
Shropshire, SY2 6ND

Members of the public will be able to access the live stream of the meeting by clicking on this link:

<https://www.shropshire.gov.uk/southernplanningcommittee5october2021/>

There will be some access to the meeting room for members of the press and public, but this will be very limited for health and safety reasons. If you wish to attend the meeting please e-mail democracy@shropshire.gov.uk to check that a seat will be available for you.

The Council's procedure for holding Socially Distanced Planning Committees including the arrangements for public speaking can be found by clicking on this link:
<https://shropshire.gov.uk/planning/applications/planning-committees/>

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

Tim Collard
Interim Assistant Director – Legal and Democratic Services

Members of the Committee

David Evans (Chairman)
Robert Tindall (Vice Chairman)
Caroline Bagnall
Andy Boddington
Nick Hignett
Richard Huffer
Hilary Luff
Nigel Lumby
Richard Marshall
Tony Parsons

Substitute Members of the Committee

Julia Buckley
Nigel Hartin
Heather Kidd
Kevin Pardy
Dave Tremellen
Claire Wild

Your Committee Officer is:

Tim Ward Committee Officer
Tel: 01743 257713
Email: tim.ward@shropshire.gov.uk

AGENDA

1 Apologies for Absence

To receive any apologies for absence.

2 Minutes

To confirm the minutes of the South Planning Committee meetings held on 7 September 2021 and 20 September 2021. **[TO FOLLOW]**

Contact Tim Ward (01743) 257713.

3 Public Question Time

To receive any questions or petitions from the public, notice of which has been given in accordance with Procedure Rule 14. The deadline for this meeting is no later than 2.00 pm on Friday 1 October 2021.

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 Proposed Affordable Dwelling Land West of Greenway Head Burford Shropshire (21/02749/FUL) (Pages 1 - 12)

Erection of an affordable dwelling (single plot exception site) with detached garage

6 Salop Sand & Gravel Supply Co Ltd Gonsal Quarry Condover Shrewsbury Shropshire (21/03846/EIA) (Pages 13 - 66)

Formation of southern extension; new extraction beneath existing lagoons and progressive restoration for a period of 6 years (re-submission)

7 Schedule of Appeals and Appeal Decisions (Pages 67 - 90)

8 Date of the Next Meeting

To note that the next meeting of the South Planning Committee will be held at 2.00 pm on Tuesday 2 November 2021

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Development Management Report

Responsible Officer: Tracy Darke, Assistant Director of Economy & Place

Summary of Application

Application Number: 21/02749/FUL	Parish:	Nash
Proposal: Erection of an affordable dwelling (single plot exception site) with detached garage		
Site Address: Proposed Affordable Dwelling Land West of Greenway Head Burford Shropshire		
Applicant: Ms Harriet Beaumont		
Case Officer: Helen Tipton	email: helen.tipton@shropshire.gov.uk	

Grid Ref: 358703 - 269879



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Recommendation:- Refuse.

Recommended Reason for refusal

1. The site is in open countryside and not within or adjoining any recognisable named settlement. Consequently and notwithstanding the fact that the applicants have been found to fulfil the local connections and housing need criteria for a designated affordable home, the principle of the proposed development is contrary to the National Planning Policy Framework, Policies CS5 and CS11 of the Shropshire Local Development

Framework Adopted Core Strategy, Policies MD3 and MD7a of the Shropshire Council Site Allocations and Management of Development Plan and the Council's Supplementary Planning Document (SPD) on the Type and Affordability of Housing.

2. By reason of its countryside location and only sporadic housing existing in the locality, the introduction of additional buildings to the vicinity would visually detract from and spoil the open countryside. The development would therefore be contrary to the National Planning Policy Framework, (NPPF); Core Strategy Policies CS5, CS6, CS17 and policy MD2 of the Shropshire Council Site Allocations and Management of Development (SAMDev) Plan.

REPORT

1.0 THE PROPOSAL

- 1.1 The application seeks planning permission to erect an affordable dwelling (single plot exception (SPE) site) with detached garage for the occupation by a named individual with an identified local housing need.
- 1.2 The proposed dwelling would be of a single-storey, with its walls constructed of horizontal timber boarding, a black coloured, metal sheet roof and timber window casements. The garage would also be of a single-storey and consist of a pitched roof, with one half of the structure enclosed. The garage building would provide parking for two vehicles, whilst the dwelling would provide up to three bedrooms, with an en-suite and separate bathroom, kitchen / dining room and a dressing room.
- 1.3 The application originally proposed a new access route from the road, although this, along with the site layout has since been amended to utilise an existing access serving the adjacent stable yard, which is in the ownership of the applicant's mother.
- 1.4 It is intended that the foul waste connection would be made to an existing septic tank on the adjacent stable yard site. The septic tank serves a toilet, which was approved as part of a scheme to extend the stables and provide additional storage within the adjacent site, (application 19/02198/FUL refers).

2.0 SITE LOCATION/DESCRIPTION

- 2.1 The land proposed for development forms the corner of a larger field and is located more than a mile from Burford village. It is enclosed by hedgerow and lies adjacent / to the north of 'Greenway Head Lane'; an unclassified, rural road leading between the Greete to Burford road and the B4214 / Clee Hill Road. The site sits approximately 0.19 miles to the south west of Greenway Head Farm and a small group of barn conversions. A residential dwelling, (Greendale), also sits closer, approximately 150 metres or more away to the north east.

The dwelling would be approached via an existing, gated access leading to the rear of a stable yard, which is sited to the north east of the development site.

The ground here is mainly level with grazed farmland rising on the opposite side of the road.

3.0 **REASON FOR COMMITTEE DETERMINATION OF APPLICATION**

3.1 The Parish Council has expressed a view contrary to the officer recommendation. The Local Ward Member supports the scheme and, in consultation with the Chair and Vice Chair of the South Planning Committee and the Principal Planning Officer, it is concluded that the matter should be raised for determination by Committee.

4.0 **Community Representations**

4.1 Consultee Comments

4.1.1 Shropshire Council Ecology - comment.

Ecology standing advice is provided, which provides general informative comments in relation to protected species.

4.1.2 Shropshire Council Highways - no objection.

8 July 2021 - comment.

Full detailed construction information, relevant for a full highways assessment to be undertaken is required for submission, so that pre-commencement conditions can be avoided, as recommended by the National Planning Policy Framework (NPPF). The following, further information is required to be submitted on a dimensioned scale drawing:

- Full construction details of the proposed access, including layout, construction, radii and visibility splays commensurate with the speed of traffic passing the site.

Any further information submitted should provide any and all details necessary to assist with the appropriate determination from a Highways and Transport perspective. It should demonstrate that the proposed new vehicular access, associated visibility splays, parking and turning facilities are commensurate with the prevailing local highway conditions, in accordance with 'Manual for Streets 1 & 2'.

20 August 2021 - no objection.

Further drawings indicate a revised scheme and access will now be taken through the existing access to the stables and stable yard. The stables were extended in 2019 under planning application 19/02198FUL and the access was considered acceptable for the development. Given that access is existing, it is considered that a highway objection to the proposal could not be sustained.

Although access is existing, it should be noted that the access bell mouth should be surfaced in a bound material and the gates should be set back at sufficient distance from the edge of the adjoining carriageway to allow the largest vehicles using the access to pull clear of the highway while the gates are opened and closed.

General informative comments are provided.

4.1.3 Shropshire Council Affordable Housing - comment.

The applicant submitted an Affordable Housing Questionnaire with accompanying evidence and the Affordable Housing Team sent a letter to the applicant on 17th March, 2021. This letter confirmed they had demonstrated an affordable housing need and had strong local connections to the area in which they proposed to build a home. The Affordable Housing Team were therefore satisfied they had met the need requirements of the build your own affordable housing scheme.

The approval letter was based upon the information provided and will remain valid for 12 months from the date of the consent letter. However, we must be notified immediately if any of the personal or financial circumstances change significantly during this period.

4.1.4 Shropshire Council Drainage - comment.

A sustainable drainage scheme for the disposal of surface water from the development should be designed and constructed in accordance with the Council's Surface Water Management: Interim Guidance for Developers document. This is available on the councils website at:

<https://www.shropshire.gov.uk/media/5929/surface-water-management-interim-guidance-fordevelopers.pdf> .

The provisions of the Planning Practice Guidance, Flood Risk and Coastal Change should be followed.

Preference should be given to drainage measures which allow rainwater to soakaway naturally. Soakaways should be designed in accordance with BRE Digest 365. Connection of new surface water drainage systems to existing drains / sewers should only be undertaken as a last resort, if it can be demonstrated that infiltration techniques are not achievable.

4.1.5 Nash Parish Council - support.

18 July 2021 - support.

The Parish Council wishes to support this application as the applicant fits the criteria for affordable housing need and is sited in a reasonable settlement. The site doesn't impose on any neighbours views of the countryside and will not cause any great loss to agricultural land.

The Parish Council are happy to support this application taking into account any considerations made by highways and planning.

25 August 2021 - support.

The Parish Council also approve the amended scheme and wish to support the revised plans.

4.2 Public Comments

4.2.1 The application was advertised by way of notice at the site and neighbouring residential properties were notified by letter. The full text of public comments can be viewed online, although they are summarised below:

4.2.2 Two separate households object for the following reasons:

- The site is within open countryside and outside of the nearest settlement boundary of Burford; identified as a Community Hub. The submitted planning statement identifies 13 residential properties in proximity to the site and these are all listed as addresses in Burford. The northern edge of Burford is over a kilometre from the application site and therefore cannot be determined to be adjacent to a recognisable named settlement.
- The site is isolated from other residential properties and located over 160 metres away from the nearest property to both the north and south, so has no physical relationship with any other residential curtilage. The 13 properties listed are spatially dispersed, comprising no physical characteristics or relationship representative of a settlement and no community facilities that would engender a sense of community. The site is therefore not in or adjacent to any settlement.
- The Planning Statement identifies a number of affordable homes that have been consented within proximity to the application site. These applications do not set a precedent and provide evidence that the application site is not located within the recognised named settlements of Round Oaks or Rugpits, as determined by Council officers in previous decisions.
- There is currently no residential or commercial use permitted on the site. It is not connected in any way to the non-commercial equine use of the site [adjacent] and therefore does not constitute an essential rural workers dwelling.
- This is not an essential workers dwelling. The land is supposed to be used for a private horse stabling yard, not involving any 'rural workers'.
- There are a good number of affordable dwellings available that lie within recognized named settlements. The current construction of the Castle Reach Development in Burford is one example.
- The applicant is not the owner of the site and therefore if transference were to be effected, it would mean that the site would have no legal connection to the stabling.
- The proposed access point to the site is across land in my ownership and therefore the applicant would be legally required to serve notice to any affected landowner.
- The future use would totally change the beautiful area we live in.

4.2.3 Nine separate households support the application on the following grounds:

- There is a pressing need for affordable housing for people who are local.
- As long as local needs dwellings fit national and local policy, they can only be a good thing.
- The property is to be developed on family owned ground, which is what affordable housing is all about.
- The proposed development has been designed to fit in, visually, with the surrounding area and is modest.
- The lane is not at all busy so traffic should not be an issue.
- Being local to schools, shops and facilities makes the site a good location to build a home.

- The site is already used for equestrian purposes so the development would add security to it.
- Given that the owner currently has to travel to the site on a daily basis, the development would result in a reduction in traffic.

5.0 THE MAIN ISSUES

Principle of development
Scale, layout, design and landscape impact
Residential amenity
Highways
Ecology
Other matters

6.0 OFFICER APPRAISAL

6.1 Principle of development

6.1.1 A key objective of both national and local planning policy is to concentrate residential development in locations which promote economic, social and environmental sustainability. Specifically, the Council's Core Strategy Policies CS1, CS3, CS4, CS5 and CS11 state that new open market housing will only be permitted on sites within market towns, other 'key centres' and certain named villages ('Community Hubs and Clusters'), as identified in the Site Allocations and Management of Development (SAMDev) Plan. Isolated or sporadic development in open countryside, (i.e. outside the named settlements) is generally regarded as unacceptable unless there are exceptional circumstances.

6.1.2 One of the exceptions mentioned under Core Strategy Policy CS5 and SAMDev Policy MD7a is where named individuals with strong local connections and who are in demonstrable housing need wish to build their own 'affordable' home. Detailed guidance on this initiative, including a definition of the terms 'strong local connections' and 'housing need', can be found in the Council's Supplementary Planning Document, (SPD). The Council's Housing Enabling Officer is satisfied that these two aspects of the policy are met. If planning permission were to be granted it would be subject to prior completion of a legal agreement to control both initial and future occupancy of the house, and to cap its resale value. It should be noted that the application does not propose a 'rural workers dwelling', which would carry separate regulations and different policy requirements.

6.1.3 In terms of the issue of location, even affordable homes on rural exception sites are required by the SPD to be within or adjoining "recognisable named settlements". Isolated or sporadic development in open countryside, or which would otherwise adversely affect the landscape or an area's local distinctiveness or historic character, is unacceptable. The SPD explains that all settlements comprise a group of houses occupied by households from different families, with the group becoming a settlement on account of the number houses and their proximity. Its limits are defined by where the relationship between the different properties peters out and hence a site divorced slightly from a dispersed or loose-knit settlement might be considered to adjoin it, whereas one a similar distance from a tightly clustered or

nucleated settlement would not.

6.1.4 Burford is a Community Hub, where new open market or affordable housing development would be acceptable in principle. Similarly, Rugpits and Round Oak have previously been considered as recognisable settlements for affordable housing, although none of these settlements are positioned along Greenway Head Lane and the site is not recognised as being within or close to these settlements. Clearly, this site is too far removed from any pattern of residential development and cannot be regarded as being close to or adjoining a settlement. The small number of dwellings along Greenway Head Lane are far from continuous and most significantly, the overriding impression, when stood at the application site, is of open, largely undeveloped and scenic, rural countryside. Notwithstanding the adjacent stable yard, (where no dwelling exists), the site is separated, both physically and visually by agricultural land and the development would be seen as an isolated dwelling in open countryside. This was also the conclusion of the officer at the pre-application stage of enquiry in March 2020.

6.1.5 For these reasons officers consider that the site does not form part of a settlement, instead being in open countryside, with only very sparse housing which mostly predate modern planning requirements. Any new dwelling in this deeply rural and attractive landscape would inevitably erode its character.

6.2 **Scale, layout, design and landscape impact**

6.2.1 Following the receipt of amended plans, the site area would accord with the 0.1 hectare limit imposed by the SPD, whilst the dwelling's gross internal floor space would not exceed the 100 square metre threshold. In itself, the design of the house is also generally satisfactory, as it combines a simple building form with reasonably traditional proportions and mostly vernacular materials, akin to a modest farm building. Its height is of no concern, given the single-storey nature of the building, its dark coloured roof, timber walls and its position on level ground, behind roadside hedgerow.

6.2.2 However, the development would introduce building sprawl and further elongate the adjacent stable yard site, almost doubling the area of development here. This would have a negative impact on the rural idyll, particularly when viewed from higher ground or from other, wider viewpoints

6.3 **Residential amenity**

6.3.1 Although the proposed development has the potential to be visible from the nearest neighbouring property, (Greendale), there is no legal right to an unrestricted view across private land and given that soft landscaping could be introduced to provide some screening around the site, the development should not appear overbearing to neighbours.

6.3.2 Additionally, low-level noise from day-to-day domestic activities is unlikely to be problematic and no more so than the daily activities carried out at the stable yard.

6.4 Highways

- 6.4.1 Given that approach to the site would be made via an existing access to the adjacent stable yard, the Council Highways team have no objection, although they would prefer, amongst others, for the entrance to have its gates set in from the road, to allow safe ingress and egress of traffic and preventing vehicles being stationed in the road while the gates are opened or closed.
- 6.4.2 Whilst the narrowness of Greenway Head Lane is acknowledged, it is lightly trafficked and the Highways team have raised no concerns about its capacity to accommodate the traffic likely to be generated by one additional household.
- 6.4.3 A supporting public comment makes reference to the reduced need for the existing owner to travel so frequently to the stable yard, once the proposed development is occupied. Given the limited information provided to the local planning authority, it cannot be ascertained whether or not traffic would actually be reduced although, as aforementioned, it is not considered that any additional traffic to one residential unit would be problematic.

6.5 Ecology

- 6.5.1 The Local Planning Authority is legally obliged to have regard to biodiversity when exercising any of its statutory functions. In this case, the development would take place on improved pasture and it is noted the Council's Ecology team raise no overriding concerns in this regard.

6.6 Other matters

- 6.6.1 An objection comment makes reference to the originally proposed access point to the site being in their ownership and the need for the applicant to serve notice on them. Amended plans were subsequently provided, which would see an existing access being utilised instead. In any event, this is a civil matter and not one for the Local Planning Authority to decide.
- 6.6.2 If planning permission were to be approved, then a Section 106 legal agreement would be entered into and the occupier would have free passage through the adjacent stable yard site, regardless of the stable yard changing hands in the future. There would not be a need to tie the development site to the stable yard.

7.0 CONCLUSION

The applicants have been found to fulfil the local connections and housing need criteria for an affordable home. However, the scheme is contrary to the relevant planning policies because the site is in open countryside, with only very sporadic housing existing in the specific locality. Whilst the form and appearance of the proposed development is generally acceptable, its siting would introduce spill into the rural area and would detract from the character and visual amenity of the countryside location. For these reasons it is recommended that planning permission is refused.

8.0 Risk Assessment and Opportunities Appraisal

8.1 Risk Management

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

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

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

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

8.2 Human Rights

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

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

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

8.3 Equalities

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

9.0 Financial Implications

There are likely financial implications if the decision and / or imposition of conditions is challenged by a planning appeal or judicial review. The costs of defending any decision will be met by the authority and will vary dependent on the scale and nature of the proposal. Local financial considerations are capable of

being taken into account when determining this planning application – insofar as they are material to the application. The weight given to this issue is a matter for the decision maker.

10. Background

Relevant Planning Policies

Central Government Guidance:
National Planning Policy Framework

Shropshire Core Strategy and SAMDev Plan Policies:

CS1 Strategic Approach

CS5 Countryside and Green Belt

CS6 Sustainable Design and Development Principles

CS11 Type and Affordability of Housing

CS17 Environmental Networks

CS18 Sustainable Water Management

MD2 Sustainable Design

MD7a Managing Housing Development in the Countryside

MD12 Natural Environment

SPD on the Type and Affordability of Housing

RELEVANT PLANNING HISTORY:

15/01981/FUL Erection of private stables GRANT 30th July 2015

19/02198/FUL Erection of extensions to existing stables to provide additional equine accommodation and covered storage; erection of a barn for storage and tack (amended description) GRANT 8th August 2019

11. Additional Information

View details online: <https://pa.shropshire.gov.uk/online-applications/simpleSearchResults.do?action=firstPage>

List of Background Papers (This MUST be completed for all reports, but does not include items containing exempt or confidential information) Planning Statement
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Cabinet Member (Portfolio Holder) Councillor Ed Potter

Local Member

Cllr Richard Huffer



APPENDIX 1

Informatives

1. Despite the Council wanting to work with the applicant in a positive and proactive manner as required in the National Planning Policy Framework paragraph 38, the proposed development is contrary to adopted policies as set out in the officer report and referred to in the reasons for refusal, and it has not been possible to reach an agreed solution.

Development Management Report

Responsible Officer: Tracy Darke, Assistant Director of Economy & Place

Summary of Application

<u>Application Number:</u> 21/03846/EIA	<u>Parish:</u>	Condover
<u>Proposal:</u> Formation of southern extension; new extraction beneath existing lagoons and progressive restoration for a period of 6 years (re-submission)		
<u>Site Address:</u> Salop Sand & Gravel Supply Co Ltd Gonsal Quarry Condover Shrewsbury Shropshire		
<u>Applicant:</u> Salop Sand & Gravel Supply Co Ltd		
<u>Case Officer:</u> Graham French	<u>email</u> : planning.southern@shropshire.gov.uk	

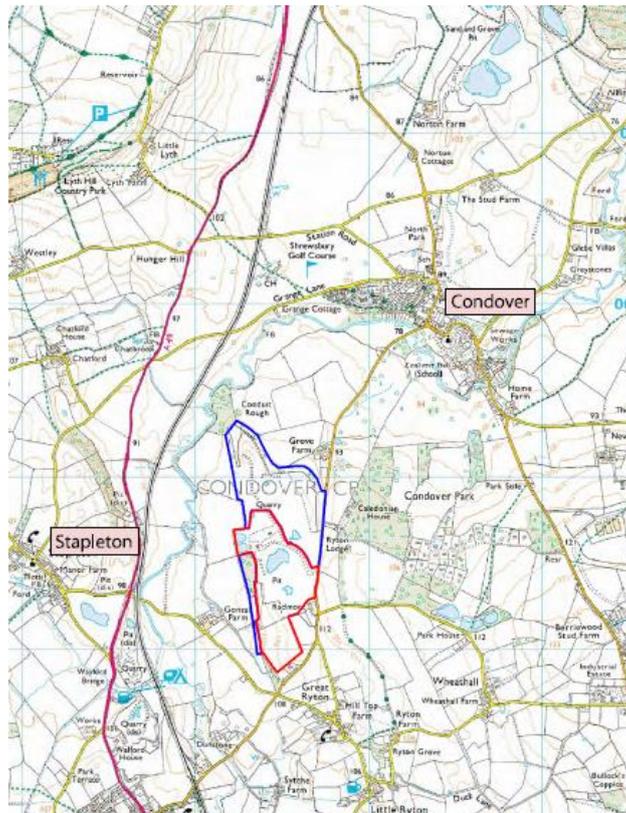


Figure 1 – Location Plan

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

REPORT

1.0 THE PROPOSAL

1.1 The Planning Application is for proposed sand and gravel extraction beneath existing lagoons, a proposed southern extension and progressive restoration at Gonsal Quarry.

1.2 A similar application (20/03173/MAW) which was refused by the committee in March this year. The only changes are that the annual output has been reduced from 150,000 tpa to 110,000 tpa and an associated application for a satellite depot at Norton Farm north of Condover is not now being proceeded with. The previous application was refused for the following reason:

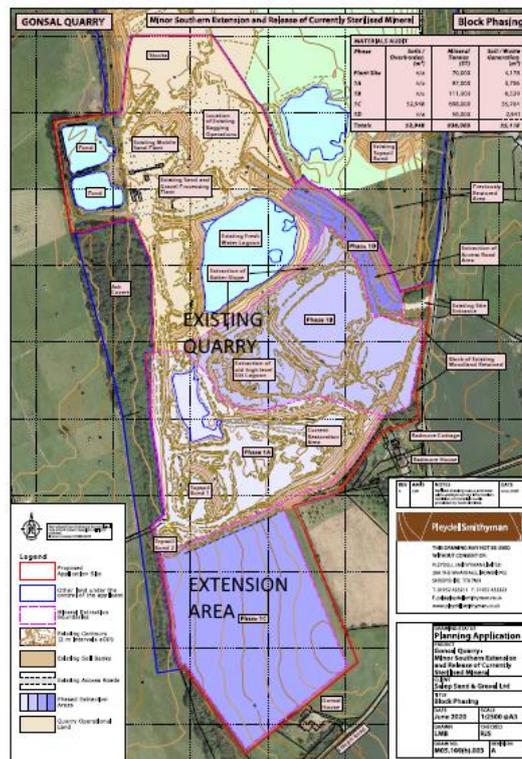
‘The application conflicts with the development guidelines accompanying SAMDev Policy MD5b in that the requirement for a new access to the A49 avoiding Condover village has not been met. Consequently, the proposals would result in an unacceptable continuation of large quarry HGV movements through Condover Village and Conservation Area and a corresponding adverse impact on local amenities. The applicant’s mitigation proposals are considered insufficient to outweigh this negative impact. (SAMDev Policy MD2, MD5b, MD13, MD13)’

1.3 An appeal against this and refusal of the associated application for a satellite depot (Ref 20/03173/MAW) is scheduled to be heard at an Inquiry commencing on 5th December. However, the applicant has confirmed that this will be withdrawn if the current application is approved.

1.4 The proposals involve phased extraction of sand and gravel at a rate of 110,000 tonnes per annum over a period of 6 years, a reduction in activity previously accommodated on the local road network, together with progressive restoration to agriculture and nature conservation uses.

1.5 The existing permitted quarry access and routing arrangements to the north through Condover would remain the same. No additional plant or machinery required.

1.6 The quarry would operate as existing between the hours of 0730 to 1700 Monday to



Plan 2 – Block Phasing

1.8 Environmental Statement: An Environmental Statement accompanies the application under Schedule 2 of the EIA Regulations including transport, hydrology and ecological assessments. These matters are considered in section 6 below.

2.0 SITE LOCATION / DESCRIPTION

2.1 The proposed extension area is located south of the existing quarry. Gonsal Quarry itself is located off Station Road, between Dorrington to the south-west and Condover to the north-east. Shrewsbury is the nearest major town, approximately 7.5km north of the site. The small village of Great Ryton is located approximately 500m south of the existing quarry.

2.2 The Site area (23.18Ha) comprises the southern part of the existing permitted Gonsal Quarry (18.06Ha) and a proposed southern extension of 5.12Ha.

2.3 The closest residential receptors are located along Station Road, to the east and south of the quarry. Gonsal House is the closest property, directly abutting the proposed southern extension. The landscape is predominantly rural, with a gently undulating topography in the vicinity of Cound Brook, a tributary of the River Severn.

2.4 Access to the site is gained from Station Road with quarry traffic passing through Condover and joining the A49 a short distance south of Bayston Hill.

2.5 The proposed southern extension is into an existing 4.7ha arable field of which 4ha of which is proposed for mineral extraction. The land has a slight rise from west to east. The boundary between the current quarry and the proposed extension area is a hedgerow which does not contain any trees and has gaps at either end to enable farm access. The land within the current quarry which forms part of this application consists of old silt lagoons sterilising underlying mineral and an internal access track.

3.0 REASON FOR COMMITTEE DETERMINATION OF APPLICATION

3.1 The proposals have attracted objection from Condover Parish Council and have been referred to committee by Councillor Dan Morris.

4.0 COMMUNITY REPRESENTATIONS

Consultee Comments

4.1 Condover Parish Council – Objection. At its meeting on 7th September 2021, Condover Parish Council resolved to object to this planning application on the grounds that:

- i. At its meeting on 16th March 2021, Shropshire Council Southern Planning Committee refused this application on the grounds that ‘The application conflicts with the development guidelines accompanying SAMDev Policy MD5b in that the requirement for a new access to the A49 avoiding Condover village has not been met. Consequently, the proposals would result in an unacceptable continuation of large quarry HGV movements through Condover Village and Conservation Area and a corresponding adverse impact on local amenities. The applicant’s mitigation proposals

are considered insufficient to outweigh this negative impact. (SAMDev Policy MD2, MD5b, MD13, MD13)'.
The Parish Council held this decision to remain valid. The application was refused irrespective of the tonnage extracted.

- ii. In discussions with the Parish Council, Shropshire Council Planning Officers had seemed to downgrade the status of Development Guidelines in the Shropshire Local Plan. The Parish Council understood Development Guidelines to be integral to Planning Policy to the extent that they guide how policy should be interpreted and administered. It was further understood that these Guidelines were included in Shropshire Local Plan Policy MD5b specifically to mitigate the recognised and cumulative impact of quarry operations on the village and residents of Condover. This would seem compliant with NPPF 2021 para 210(f) which stated that planning policies should:
'set out criteria or requirements to ensure that permitted and proposed operations do not have unacceptable adverse impacts on the natural and historic environment or human health, taking into account the cumulative effects of multiple impacts from individual sites and/or a number of sites in a locality'
- iii. In the Planning and Environmental Statement, the applicant referred to a Court of Appeal case: Asda vs Leeds City Council (20-01-2021). The applicant had selected extracts from the exploratory discussion of this case concerning interpretation of the word 'should', used in the NPPF and Leeds City Council Development Guidelines. Put briefly, the Court of Appeal considered that the word 'should' could not be reinterpreted as meaning 'must', and therefore, taking all considerations into account, a degree of discretion remained. In Policy MD5b with reference to Gonsal Quarry, the Development Guidelines in the Shropshire Local Plan did not indicate a new access to the A49 should be constructed. The Development Guidelines clearly stated that 'Further extension of the (Gonsal Quarry) site will only be acceptable with the creation of a new access to the A49'. The word 'should' was not used in policy MD5b. The words 'will only be acceptable' conveyed a much clearer statement of intention, equivalent to 'must'.
- iv. Throughout the supporting documents to this application, and during Parish Council discussions with Shropshire Council Planning Officers, it had been asserted that the NPPF established a 'presumption' to grant planning consent that could and possibly should override all but the most 'severe' of material planning considerations. Referring again to Asda vs Leeds City Council, the Parish Council noted the final judgement reached:
'This (case) seems ... to require (the inspector) to undertake a balancing exercise. The presumption is not something which is absolute. It is not a pillar of presumption, waiting to see if it will be knocked down by the impact of serious planning objections. (Paragraph 3) clearly requires the inspector to carry out a balancing exercise, he has to take into account a presumption, he has to take into account whether there are clear planning objections, but, then, he has to see whether in the circumstances of the case planning objections outweigh the need to make (the land) available..'
This case established the 'presumption' was not absolute and should be weighed against other material planning objections within the circumstances of the case. The Parish Council concluded this evidenced the importance of carefully weighing material planning objections against any 'presumption' to grant consent.

- v. The Parish Council referred to NPPF 2021 para 211 which stated that ‘In considering proposals for mineral extraction, planning authorities should: ‘b) ensure that there are no unacceptable adverse impacts on the natural and historic environment, human health or aviation safety, and take into account the cumulative effect of multiple impacts from individual sites and/or from a number of sites in a locality’
It was therefore established by the NPPF that unacceptable adverse impacts, including those on the historic environment and human health, were material planning considerations, and that account should be taken of the cumulative effect of these impacts.
- vi. The Planning and Environment Statement assessed the impact of quarry operations on only three conservation assets: Condover Hall, Ryton Villages and Shropshire and Herefordshire Railway. Neither the applicant nor Shropshire Council had assessed the impact for Condover Village Conservation Area or the Grade II listed bridge over the River Count. All lorry traffic to and from Gonsal Quarry passed through the centre of the Condover Village Conservation Area and over the Grade II listed bridge. The Parish Council noted there were more than 40 listed buildings in Condover, some very close to or directly abutting the route taken by Gonsal Quarry lorries. NPPF 2021 para 211 b) expected minerals planning authorities to ensure there were no unacceptable impacts on the historic environment. NPPF 2021 para 194 required the impact of development on heritage assets to be assessed, while para 200 stated ‘Any harm to, or loss of, the significance of a designated heritage asset (from its alteration or destruction, or from development within its setting), should require clear and convincing justification’.
The Parish Council considered the planning application to be non-compliant with the NPPF as there had been no assessment of the impact on Condover Village Conservation Area or the Grade II listed bridge.
- vii. The Parish Council also referred to a letter dated 29 January 2019 sent by Historic England to Shropshire Council Planning Officers with respect to a planning application to undertake a minor southern extension at Gonsal Quarry (19/00178/SCO). Historic England stated their expectation that the Environmental Statement should contain a ‘thorough assessment of the likely effects which the proposed development might have upon those elements which contribute to the significance of these assets’. This included ‘non-designated features of historic, architectural, archaeological or artistic interest, since these can also be of national importance and make an important contribution to the character and local distinctiveness of an area and its sense of place.’ Historic England ‘strongly recommended the (the Planning Officer) involve the Conservation Officer of Shropshire Council and the archaeological staff..... The assessment should also take account of the potential impacts of associated activities (such as construction, servicing and maintenance and associated traffic)...’. The Parish Council regarded this letter to be confirmation of the importance of undertaking formal impact assessments of Quarry operations on Condover Village Conservation Area and the Grade II listed bridge. Such impact assessments had not been undertaken in the current planning application, or in previous planning applications.
- viii. Para’s 6.2.13 and 14.2.4 of the Planning and Environmental Statement, and indeed throughout the document, referred to the current extraction rate at 150,000tpa, and suggested a previous maximum extraction rate of 220,000tpa. The Parish Council was at a loss to understand how these figures could be used and why they had not been

corrected by Shropshire Council Planning Officers. The current permitted extraction rate was 50,000tpa. The applicant had indeed been operating at far higher levels, but this was in clear breach of existing planning conditions. That there had been no challenge or enforcement action from Shropshire Council Planning Officers did not validate the current extraction levels. The 110,000tpa proposed in the application did not represent a reduction in the current permitted extraction level. On the contrary, it represented an increase of 60,000tpa, more than double the amount.

- ix. The Transport Statement recognised there were geometric constraints affecting road use along the route taken by lorries from Gonsal Quarry through Condover village to the A49 (para 7.10). It further recognised there were points along that route where the road width fell below that sufficient to accommodate two lorries passing side by side (para 2.2). Contrary to the statement in para 2.3 about formal and informal passing places, there were no designated passing places along Station Road in the village. The 'informal passing places' referred to were private driveways, the small private roadside car park used by Post Office customers and the access across the pavement to the Village Hall car park. The Parish Council was in possession of considerable photographic evidence to show that access to these 'informal passing places' necessitated leaving the bounds of the highway and in most instances, mounting the pavement. The curve in the road through the village made it impossible to anticipate and halt to allow passage of traffic coming from the opposite direction. The Parish Council disagreed with the conclusion drawn in para 3.14 that the current pressure on Station Road was manageable but considered the operational capacity and geometric nature of the road network to be a significant constraint.
- x. The Traffic Statement referred to quarry traffic as a proportion only of HGVs passing through Condover village. The Parish Council acknowledged that large farm traffic was integral to the rural nature of the village and that delivery vehicles, horse boxes and other large vehicles were to an extent inevitable. Such HGV's were, however, considered to be very different in nature and to have a significantly different impact on the village infrastructure and for local residents to the frequent and persistent two to four times hourly passage through of 30 tonne articulated lorries.
- xi. The Traffic Statement (para 4.8) stated that 'The evidence of use of the site and lack of incidents is demonstrative that in terms of highway safety, the proposed development, which simply seeks to maintain current activities throughout the 6 year extension period, is acceptable'. The Parish Council again noted that the current level of activities were in protracted breach of existing planning conditions. The Traffic Statement failed to acknowledge the cumulative impact on the behaviour of residents of the danger posed by heavy lorries regularly mounting the pavement. The majority of pedestrians minimised their use of Station Road. Many Condover parents took their children to the primary school and pre-school by car in preference to walking along the Station Road pavement. The Parish Council believed the absence of accidents better reflected the learned caution of residents rather than the lack of risk posed.
- xii. In para 3.4.6 of the Planning and Environmental Statement under the heading 'Lack of Clarity on Parish Spending' the applicant claimed to have been paying the Parish Council £30,000pa. The Parish Council regarded this claim to be intentionally mischievous. The Parish Council did not and had never received annual funding from Gonsal Quarry. Shropshire Council Planning Officers had been informed several times

that this claim was false and had been asked to ensure it was, as a matter of public record, deleted from the planning documents. Such action had not been taken and the claim had been allowed to pass unchallenged

- xiii. Overall, the Parish Council thought the Development Guidelines provided by MD5b, that further extension of the (Gonsal Quarry) site will only be acceptable with the creation of a new access to the A49, to be compliant with NPPF 2021 para 210(f), and to reflect sound judgement based on the totality of material planning considerations.
- 4.2i. Environment Agency – No objection subject to conditions on pollution control. We note that this is a resubmission of 20/03173/MAW (refused) which we raised no objection to in principle within our letter of 2 February 2021.
- ii. Our original response (dated 22 October 2020), to 20/03173/MAW, raised some concerns/points for clarity based on the information presented within the ES in relation to hydrogeology and the potential impacts upon the water environment. Following supplementary information we were satisfied with the responses from Stantec and provided the following condition to secure an appropriate water monitoring and mitigation for any possible impacts encountered. We would expect to see trigger levels and monitoring of the Cound Brook.
 - iii. Dewatering - We are in agreement that providing most of the water that is de-watered is returned to the river, there shouldn't be any major impacts providing the timing is right. In relation to the quarry abstraction and New Authorisations, as this is a new planned phase of working, the transitional application will not cover this activity. Consequently a separate licence application/variation will be required. The applicant will need to ensure that all the secondary uses are also appropriately licenced. It appears that the proposed new working proposals are to quarry out beneath the existing silt lagoons/extension to the south. It is suggested that the de-watering rates should be the same. However any application will be assessed on a case by case basis. i.e. granting of planning permission does not compel an abstraction licence to be granted.
 - iv. Water quality - We note the comments on the discharge to Cound Brook and monitoring to date. There may be a need to vary the existing permit to discharge (discharge consent license). The applicant should contact our area Land and Water team on 03708 506506. The need for an abstraction licence and permit to discharge should be an informative on any planning consent.
 - v. Biodiversity - Comprehensive vegetation and protected species surveys of the application site have been undertaken. These follow industry standard methods to assess the environmental impact of the quarrying proposal for the site. The findings of these surveys indicate that there is a large breeding population of Great Crested Newts, breeding birds, notable invertebrate assemblages associated with acid grassland, wetland and ephemeral/short perennial habitats, bat and badger foraging and the following habitats of principal conservation importance which require the protection under the Natural Environment and Recreation Act 2006: unimproved acid grassland, hedgerows and pools. We would recommend that you seek the view of Natural England and your Ecologist on the above. We welcome the creation of some new pools (we would encourage wetland habitat) and grassland within a year of the start of the operation. The full restoration plan for the quarry with details of the

timescale of its delivery and after care should be submitted for approval. You might consider a construction environment management plan (CEMP) for the operation and restoration phase, to cover ecology and in order to protect species that may potentially use/cross the site.

- vi. Restoration proposals - The Habitat Management Plan (EcoTech, 2018) submitted for condition 50 of the planning consent granted for the existing Gonsal quarry (ref 18/05003/DIS) sets out a positive and detailed habitat restoration and management plan for the site. The restoration plan will deliver net biodiversity gain at the site compared to its current ecological state. Biodiversity net gain on such development sites is an ambition of the Governments 25 Year Environment Plan, so we welcome these plans. The previously prepared EcoTech habitat management plan should be expanded to include this southern extension and secure that wider benefit. We would recommend a condition be imposed to control this. A five year aftercare management by the operator is proposed, under monitoring by Shropshire Council, after which the land will be fully managed by the land owner. Natural habitats take many years to develop. To ensure that this site reaches its greatest potential for biodiversity we would recommend that the aftercare management is undertaken by the operative for at least 10 years, with annual checks and reporting by a qualified Ecologist. Natural England would lead on the Great Crested Newt population. This will allow early intervention to be enacted if the habitats are not establishing well, for example if invasive non-native plants establish.
- vii. Flood Risk - We have no comments on fluvial flood risk on the basis that the site is located within Flood Zone 1 ('low probability' of fluvial flooding). We would recommend that you seek the comments of your Flood and Water Management team (LLFA) who would lead on surface water (quantity) drainage and the latest peak rainfall climate change allowances.

4.3 Shropshire Wildlife Trust – No comments received.

4.4 Natural England – Has no comments to make on the application.

Internal Comments

4.5 Regulatory Services - No objection. It appears from the application that the proposed extension will have little further impact in terms of noise and dust on receptors identified in the vicinity. The extension brings the quarrying closer to Gonsal House and I note that the property will be, or may be vacated for the duration of the extraction period and mitigation works to bank to the rear of the property. In either case a noise limit has been proposed for the property consistent with the extant condition in 13/00336/EIA for the four current locations bordering the site (Grove farm, Ryton Lodge, Grange cottage and Radmore Cottage) of 51 DbA and 48 DbA Leaq for 1 hour, as well as general mitigation as the works progress as mentioned in the environmental statement.

4.6 SC Highways Development Control – No objection subject to the following comments:

- i. The current application is a re-submission of an application which was refused by the southern planning committee at the meeting on 16th March 2021. The original

application (Ref 20/03173/MAW) was linked to a proposal for a satellite depot at Norton Farm (Ref 20/05371/FUL) which was also refused. Both applications are now the subject of a conjoined appeal which is scheduled to be heard at Inquiry commencing on 5th December 2021. The current application which seeks to overcome the reason for refusal by reducing the level of quarry HGV movements through Condover from the originally proposed 150,000 tpa to 110,000 tpa. The satellite depot at Norton Farm is no longer proposed but the commitment to pay a highway maintenance sum of 9p per tonne remains. The applicant has confirmed that if the current application is refused then the appeal would be withdrawn.

- ii. The highway authority acknowledge that applicant company Salop Sand & Gravel have been operating out of Gonsal Quarry since the 1950's under a series of planning consents, with hgv movements connected with the quarry operations restricted to travelling from the site through Condover village and exiting out onto the A49 south at its junction south of Bayston Hill. There is therefore a long history of the quarry activities at Gonsal and the routing of hgv quarry traffic through Condover. Gonsal Quarry is identified in the SAMDev and is an important mineral resource within Shropshire, although more latterly the aim has been to try and identify an alternative traffic route to the site avoiding Condover. Whilst alternative access options have been considered, Condover remains the most economic and suitable hgv route having regard to the current scale of extraction as part of this submission and the anticipated timescale to win the material.
- iii. The current proposal seeks consent to extract 630,000 tonnes over a period of up to 6 years, equating to 110,000 tonnes per annum which represents a reduction in activity previously accommodated on the local road network. This results in an average of 22 loads / 44 movements per day based on a 20 tonne average payload and 15 loads / 30 movements based on around a 30 tonne payload.
- iv. It is acknowledged at the outset that there is significant local opposition and of the Parish Council to this application having regard to the continuation of quarry hgv movements through Condover village and the highway safety concerns of the local community. In this regard the highway authority must have regard to para 111 of the NPPF, which sets out that development should only be prevented or refused on highway grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe. A 'severe' impact is a high threshold to breach.
- v. The application is supported by a Transport Statement (TS), which recognises the historic quarry operations at Gonsal quarry and suitability of the local highway network. The TS recognises the constraints of the routing through Condover and in particular, through the section between the Post office and Junction by Condover School and the section approaching the Church Road junction. The TS acknowledges that potential highway improvements including a 20 mph speed limit would be funded by the 9p per tonne payment levy imposed upon previous and current Gonsal Quarry permitted working. This equates to a total sum in the order of £115k but it should be stressed that the use of these funds is a matter for Shropshire Council to allocate and not the applicant.

- vi. As set out in the TS, classified traffic counts were taken in October 2020 to establish traffic volumes and hgv's on the network at a number of locations. It was acknowledged that these were undertaken during Covid restrictions and therefore provided an indication of traffic movements on the network. Clearly also the traffic counts taken at a specific time of the year, would be subject to season variance since the routing from the A49 through Condover village provides access to a significant coverage of agricultural land and farming units together with access to the Industrial estate. Gonsal quarry therefore whilst clearly being a contributor to hgv traffic travelling through Condover is not the sole generator of hgv traffic on the network and the TS shows the percentage of Gonsal hgv's set against non-quarry hgv's varies quite considerably at times.
- vii. As part of any Transport Assessment or Traffic Statement, it is normal practise to consider personal injury accident (PIA) data on the network based upon a 5 year period. As part of this submission, the TS has considered the PIA data over a 21 year period 1999-2019 and cross referenced this with those involving hgv's. This reveals that only 3 PIA's have occurred in the study area and only one of those involving a vehicle above 7.5 tonnes. Given the accident record set against the quarry extraction activities and the routing of HGV's through Condover, there is no identified accident problem. The TS therefore concludes that in highway safety terms the continued operations at Gonsal and associated hgv's on the local highway network is acceptable.
- viii. In terms of highway capacity it is considered that the routing between the site access at Gonsal Quarry and A49 is generally of an acceptable standard to cater for the volume and type of vehicles that use this route. Whilst the TS considers the traffic route, it is considered that there are 2 specific sections where there are constraints where the passing of 2 hgv's simultaneously is a problem. Firstly, the section adjacent to the Station Road/Church Road junction, where it is proposed to set the kerb line back across the grassed island along Station Road and therefore easing vehicles passing one another. This is considered to be of wider benefit to all road users than just in relation to quarry traffic. The second constraint relates to the section between the Post Office and the Station Road/Station Road junction. The forward visibility along this section is restricted due to the horizontal alignment of the highway carriageway and property boundaries and the carriageway narrows. This presents a physical issue, at times, to allow 2 hgv's of a hgv and coach to pass one another along this section although it is accepted that vehicle speeds are likely to be low along this section and this is indeed acknowledged in the TS which reveals that the traffic counts taken near to the Post Office show average vehicle speeds of 23 mph north-bound and 23.4mph south-bound.
- ix. Use of Norton Farm as a depot to allow improved control of quarry HGV movements through Condover was proposed under the previous application but this is not now proposed, with the applicant deciding instead to reduce overall vehicle numbers.
- x. Given the foregoing including potential highway infrastructure benefits it is considered that a highway objection is not warranted and moreover an objection on highway capacity and/or safety grounds is not sustainable

- 4.7. SC Ecology – No comments received. The following comments were received on the previous planning application (13/00336/EIA) and are considered to remain relevant to the current application:

‘A large meta population of Great Crested Newts has colonised the water bodies in the quarry. A European Protected species mitigation licence will be required from Natural England before the development commences and this should be conditioned. Use of amphibian fencing and trapping measures, together with the demarcation of a receptor area in the quarry which provides links to surrounding habitat, should minimise any killing or injury to GCNs. Providing the concept restoration plan is followed, and the ponds retain water levels as predicted, the site should be improved for this species once restoration is completed and established. Badgers are active on the site and stand-off areas have been proposed to avoid disturbance of setts. Badgers are highly mobile species and a thorough check for new activity should be carried out by a qualified ecologist prior to work commencing in each phase. Provision of bat boxes, retention of sand faces for martins and invertebrates and the increase in standing water and species-rich grassland habitats will all enhance the biodiversity value of the quarry in the long term. Natural regeneration of vegetation on the bare sand surface should be used wherever possible as the greatest biodiversity will be achieved this way. The concept restoration plan provides little detail and conditions should be placed on any permission if granted that a detailed Landscape Restoration Plan and a detailed Habitat Management Plan should be submitted for LPA approval. Otherwise, the recommendations in the Ecology chapter should be followed. I gather some public access via permissive footpaths has been proposed. Providing appropriate ecological safeguards are in place such use should be possible’.

- 4.8a SC Conservation - No objection. This application proposes a further extension to the south of the existing quarry operations, new extraction areas and a quarry restoration program as more particularly described and mapped in the details submitted. We would advise that with respect to this type of application, due regard to the following local and national policies and guidance would be required in terms of historic environment matters: Local Shropshire Council Core Strategy policies CS5 (Countryside and Greenbelt), CS6 (Sustainable Design and Development) and CS17 (Environmental Networks), SC SAMDEV policies MD2 (Sustainable Design), and MD13 (The Historic Environment), and national policies and guidance including the National Planning Policy Framework (NPPF) and Historic England Guidance including for example 'The Setting of Heritage Assets' GPA3. Several supporting technical assessment reports have been prepared relevant to this proposal including an Archaeological Desk Based Assessment by Worcestershire Archaeology which also describes and assesses built heritage assets potentially affected by this scheme. In the main the assessment is considered to satisfactorily address the requirements of paragraph 189 of the NPPF and our own local policies in terms of built heritage matters however there a couple of minor inaccuracies in the report, for example only Condover is covered by a Conservation Area designation (not the Ryton villages or the Shrewsbury and Hereford Railway line) and again only Condover relevant to Condover Hall has a Registered Park and Garden (not Walford House) covering their grounds. The conclusions with respect to built heritage matters are noted and any mitigating measures recommended such as landscaping solutions should be implemented. The Archaeology Team will comment specifically on the archaeological matters assessed in Report as will Historic England where any additional recommendations should be followed in full.

- b. Supplementary comment from Historic Environment Team Leader referring to the current appeal: In my view raising any objections on the ground of prospective impacts on the Conservation Area arising from increased HGV movements would be very difficult to sustain at appeal; particularly as the quarry is an ongoing concern, the annual output has been reduced in this latest application, and the Highway Authority has raised no objections. I am also not aware that there is any evidence available that would support such an objection.
- 4.9i. SC Archaeology – No objection. It is understood that the proposed development site has an overall area of 23.18Ha, comprising 18.06Ha of the existing permitted quarry area and a proposed 5.12Ha southern extension into an area of agricultural land. Previous extraction within the existing quarry area will have removed any archaeological remains that previously existed there. There are currently no known archaeological sites or features recorded on the Shropshire Historic Environment Record within the area of the proposed southern extension. However, given the small number of localised find spots of Neolithic and Bronze Age material from the wider vicinity of the site there is considered to be low potential for archaeological remains of this date to be present within this area of the proposed extension.
- ii. Volume 2 of Environmental Statement includes, at Technical Annex C, an Archaeological Desk Based Assessment by Worcestershire Archaeology. It is advised that this meet the requirements of Policy MD13 of the Local Plan and Paragraph 189 of the NPPF and that we concur with its findings. Given the recommendations contained within the Assessment, and in relation to Policy MD13 of the Local Plan and Paragraph 199 of the NPPF, it is advised that a programme of archaeological work be made a condition of any planning permission. This should comprise an archaeological watching brief to be maintained during site stripping works in advance of extraction.
- 4.10 SC Arboriculture - No comments received on current application. The following comments offering no objection were received on the previous application (20/03173/MAW):
- i. 'Having read the submitted landscape and ecology information it is apparent that this proposal has a low arboricultural impact. No protected or important amenity trees are affected. I note the removal of 173m of hedgerow is necessary (described as defunct) to be replaced with 154m of mixed continuous native hedging for a modest environmental gain long term. Therefore I have no objection on arboreal grounds and support the restoration plans for new woodland planting'.
- 4.11 SC Drainage – No objection. The flood risk as described in Section 15: Water Management and Flood Risk in the Planning and Environmental Statement is acceptable.
- 4.12 Councillor Dan Morris (Conover) has been informed of the application and has referred the application to be determined by the Committee.

Public Comments

4.13 The application has been advertised in the press and by site notice and the nearest properties have been individually notified. The application has attracted representations from 56 individuals, all of whom are objecting. The concerns can be summarised as follows:

- i. Traffic: Road is unsuitable for lorries, HGV's passing residential properties. How will the suggested traffic controls be enforced? An alternative route should be found avoiding Condover. Photos showing problems with larger vehicles in Condover have been received. Quarry trucks have become larger. The size of the vehicles travelling to and from the Quarry are substantial. Considerable risk to pedestrians and other traffic. The roads are dangerous to use both in vehicles and on foot. The amount of lorries, farm vehicles and coaches travelling through Condover village at this time is at a dangerous and unacceptable level. The roads are simply not designed for the volume and size of vehicles. If you then also consider the fact that we have a primary school and preschool in situ, the safety concerns become even more paramount. This issue is far more widespread than just the quarry vehicles. The farm vehicles, lorries going to the industrial estate and coaches using Condover Hall should be considered just as culpable and problematic. Station Road is already busy, unsafe and in poor repair. The road is not wide enough for large vehicles to pass each other without mounting the pavements or reversing. Not all of the village has the benefit of paths and those which do are regularly driven over by these vehicles. There is uncertainty regarding the actual number of quarry HGV movements. Whilst the application states that there have been no recorded serious accidents on the quarry access route residents have witnessed numerous near miss incidents. Past complaints have been overlooked. Concern that traffic counters will give misleading results. Speed limits are not being observed 30mph speed limit is too fast and should be reduced to 20mph. Concern about quarry HGVs' passing through the village outside of permitted working hours. If the quarry operators are unable to conform to the rules now, there is little chance of them being able to do so with a substantially increased volume of extraction and the associated increase in heavy traffic. We are frequently picking up broken indicator covers, broken wing mirrors as well as stones, rocks and other parts that are dropping from the trucks. Lorries need to be registered and a record of each journey (including times and speeds (from their tachographs)) submitted to an independent body, and any infringements of existing traffic laws subject to hefty fines. CCTV cameras could be set up for recording lorry movements, and traffic calming measures could also be put in place. This is not a main road, no matter how much the quarry owners want it to be;
- ii. Public safety: Condover conservation area has narrow roads and learning establishments for up to 500 young visitors. Any increase in traffic, especially heavy traffic, is also a major disincentive to cycling and walking from and within Condover itself, including children going to pre-school and school. A tragedy was narrowly averted this week when a motorbike was reversed over by an articulated lorry reversing to let a quarry truck over the bridge just after the village hall, but the for the motorcyclist having the presence of mind to jump off his bike heaven knows what would have happened. I have personally experienced a near miss when a lorry from the quarry mounted the curb just in front of us to avoid another lorry. This scared my young daughter causing her to fall from her bike on the path. I've lived in Condover for over 15 yrs and have noticed a considerable

- increase in Heavy Goods traffic through Condover village. The survey suggests there have been no accidents in the last 5 years but it doesn't illustrate the constant danger to pedestrians when heavy goods vehicles travel through the village - Lorries mounting pavements, and sometimes reversing in the village, is a regular occurrence and means walking along the pavement, mostly by young children going to and from school, is becoming increasingly hazardous;
- iii. Highway mitigation: Doubt about effectiveness of the proposed mitigation measures. Any funds should be spent exclusively on highway maintenance. 9p per tonne should be reviewed regularly. A statement on available funds should be provided. Funds need to be spent regularly. Concern that any highway maintenance payments may just go into a central pot;
 - iii. Policy: The SAMDEV states that no further extraction would be allowed unless a relief road to the A49 is constructed. What evidence is there that the relief road is not feasible?;
 - iv. Amenity, dust and noise impact: General concern about quality of life for residents. HGV noise from before 6:00 am in the morning to early evening. Hours of working are certainly not adhered to. Lorries routinely pass through the village travelling to / from the quarry outside these hours, sometimes before 06:30 and as late as 19:00. Specifically, empty trucks are an acoustic nightmare and sounds like huge drums going through the village. Add to that the horns they continually blast as they go around the corner at the end of the village. Furthermore, the loud engines cause such noise that I am unable to continue my work calls as I work from home frequently of late. And lastly, the incessant beeping of trucks backing up to manoeuvre past each other is just ridiculous.
 - v. Conservation: Concern that HGVs are having a damaging effect on the Condover Conservation Area and its historic buildings. Property damage. I can literally feel the trucks rumble though in my house.
 - v. Restoration: Specific commitments for restoration timescales are needed – not clear exactly how long quarrying would last for;
 - vi. Excessive working hours: vehicles pass through village at 5.30am and park up in readiness for quarry opening. HGV's should be banned at certain times;

5.0 THE MAIN ISSUES

- i. Planning policy and need for the development;
- ii. Environmental implications of the proposals, including with respect to highways, ecology noise, dust, working hours, hydrology, agriculture, restoration and afteruse;
- iii. Appeal on previous application.

6.0 OFFICER APPRAISAL

Planning policy and need

- 6.1 Introduction: The principle of quarrying at Gonsal was established in 1977 by planning permission SC/MS1977/0755/SY and a series of subsequent quarrying permissions have since been awarded. Mineral working throughout this time proceeded at a rate of up to 200,000 tonnes per annum until 25/04/2018 when the current operational consent was granted (13/00336/EIA). This imposed a reduced output limit of 50,000 tonnes per annum which the applicant was able to agree to at the time as the permission area

included mainly a specialist fine sand which was expected to be worked at a lower output rate.

- 6.2 The current application seeks to extend workings into a field to the immediate south of the existing quarry yielding 608,000 tonnes of mineral. This is a mixed sand and gravel resource more typical of the quarry's previous workings. As such it is capable in principle of being worked at a higher rate due to wider market demand for the mineral. The proposals also refer to working of a further 300,000 tonnes of mineral within the existing quarry site (300,000t) which has since been worked under existing planning permissions. The extension would be worked over 6 years at a proposed rate of up to 110,000 tonnes per annum. This represents a reduction of 40,000tpa relative to the previous refused application (20/03173/MAW).
- 6.3 Policy: The National Planning Policy Framework (NPPF) advises (paragraph 209) that 'it is essential that there is a sufficient supply of minerals to provide the infrastructure, buildings, energy and goods that the country needs. Since minerals are a finite natural resource, and can only be worked where they are found, best use needs to be made of them to secure their long-term conservation'. 'When determining planning applications, great weight should be given to the benefits of mineral extraction, including to the economy' (para 211). Minerals planning authorities should plan for a steady and adequate supply of aggregates including amongst other matters by maintaining a landbank of at least 7 years for sand and gravel (para 213). The NPPF also establishes a presumption in favour of development which is in accordance with the development plan. In Shropshire the development plan comprises the Core Strategy and the SAMDev Plan. The proposed extension is allocated for mineral extraction by SAMDev policy MD5b.
- 6.4 National policy for aggregate supply: Paragraph 213 of the NPPF requires Mineral Planning Authorities (MPA's) such as Shropshire to plan for the future steady supply of sand and gravel by ensuring amongst other matters that sufficient permitted reserves exist for at least 7 years of sand and gravel, having regard to relevant national advice and local policies.
- 6.5 Shropshire is a member of the West Midlands Regional Aggregates Working Party (WMRAWP) which comprises a group of all mineral producing authorities in the West Midlands region. The WMRAWP identifies agreed annual production targets ('sub-regional apportionments') for each local authority area. Sufficient sand and gravel must then be made available in each area to meet the sub-regional apportionment target and to provide reserves sufficient to meet the 7-year rolling landbank of permitted reserves required by the NPPF. Shropshire must therefore identify sites in its minerals policy documents with sufficient capacity to meet this production target. This includes the current application site.
- 6.5 Development plan policy: Core Strategy Policy CS20 (sustainable mineral working) amongst other matters reaffirms Shropshire's commitment to make continued provision for sand and gravel production at the appropriate apportionment level. The policy also establishes a preference for extending existing quarries such as Gonsal rather than establishing new 'greenfield' sites. SAMDev Policy MD5b identifies allocated areas for future mineral working, including at Gonsal Quarry where the current southern

extension is included as well as a larger northern extension. The development guidelines accompanying this allocation advise as follows:

SAMDEV Policy MD5b - Gonsal Quarry Allocation, Development Guidelines

Development subject to:

1. *the creation of a new access to the A49 which would deliver significant local transport benefits over current access arrangements;*
2. *further assessment and appropriate mitigation measures to address potential impacts on residential amenity for properties along the site boundary and the edge of the village of Conover which would be in the prevailing wind (dust and noise issues would require mitigation);*
3. *further assessment and appropriate mitigation measures to address potential impacts on protected or priority habitats and species and ecological networks;*
4. *a site restoration scheme which will be designed to deliver significant wildlife and recreation benefits;*
5. *further assessment and appropriate mitigation measures to address potential impacts on the setting of historic environment assets, including Conover Hall listed building and school (700m) and Conover registered park and garden (100m).*

The development guidelines do not form part of the policy but instead provide indicative criteria which the planning authority consider should be addressed in any planning application. As such they are a material consideration to be weighed into the planning balance.

- 6.7 The applicant has concluded that the new access is not feasible and instead proposes to continue to obtain access through Conover to the A49 as per current and historical transportation arrangements. Hence, whilst the current proposals relate to an allocated mineral site where there is a presumption in favour they do not conform fully to the development guidelines set out in SAMDev Policy MD5b.
- 6.8 In terms of mineral resource, the sand and gravel in the proposed extension has been proven by boreholes and would be capable of supplying the quarry's existing established markets focusing mainly on the Telford, and Shrewsbury areas. The required quarrying infrastructure is already in place.
- 6.9 Mineral sterilisation: The applicant has advised that access to the A49 is not currently viable and therefore the proposed extension may be the last recoverable area of mineral at Gonsal, unless this situation changes. The alternative access is considered further in 6.23 below. If the current proposals do not proceed and the link to the A49 remains unviable then restoration requirements from the existing planning permission would necessitate removal of existing quarry plant and infrastructure. It is considered unlikely that in these circumstances that it would be economic to work the mineral at a future date given 1) the limited tonnage in the extension, 2) the cost of re-introducing operational plant to the site at a future date and 3) the potential disturbance to restored quarry land and associated ecological habitats which this would entail. As such, if the mineral in the proposed extension is not worked at this stage it could be argued that it would be effectively sterilised. This would be in conflict with Core Strategy Policy CS20,

SAMDev Policy MD16 and the objectives of national policy including NPPF Paragraph 210 and 213.

- 6.10 Conclusion on policy and need: In summary the current proposals relate to an allocated mineral site where the NPPF establishes a general presumption in favour. The proposals would be capable of contributing to the county's required annual production levels with a high degree of certainty and would allow continuity of working and associated employment at Gonsal Quarry which has been in operation for 50 years. If the extension did not proceed then the mineral in the extension would effectively be sterilised in conflict with national and local mineral policy including SAMDev Policy MD16. Whilst the development guidelines require a new access onto the A49 this is guidance and does not form part of the policy itself. The proposals are considered to be compliant overall with relevant policies and guidance and the need for the proposed quarry extension can be accepted in principle. This is subject to the proposals also meeting other relevant policy tests with respect to the environmental matters discussed below.

Environment and amenity

- 6.11 The NPPF advises (para 211) that 'Mineral Planning Authorities should ensure, in granting planning permission for mineral development, that there are amongst other matters no unacceptable adverse impacts on the natural and historic environment or human health and should take into account the cumulative effect of multiple impacts from individual sites and/or from a number of sites in a locality'. MPA's should also ensure amongst other matters that any unavoidable noise, dust and particle emissions are controlled, mitigated or removed at source, and establish appropriate noise limits for extraction in proximity to noise sensitive properties.
- 6.12 Traffic: Condover Parish Council and local residents have expressed significant concerns about the level of quarry traffic passing through Condover and this represents their main objection. They consider the road through the village to be unsuitable for the size and volume of HGV traffic and have urged consideration of an alternative access solution. The applicant and their highway consultant have considered this and have concluded that there are no viable alternatives given the significant limitations of other potential local roads. This is given that all other potential routes have significant limitations in terms of width and alignment. Options for alternative routing of quarry traffic have been reviewed on a regular basis throughout the history of quarrying at Gonsal. The advice of the Highway Authority has consistently been that the only currently feasible route is the existing route through Condover to the A49.
- 6.13 The Environmental Statement includes a traffic assessment including a traffic survey. This finds that the highest traffic movements and peak flows occur north of the school, where the daily weekday flows averaged 2585 vehicles including between 122 and 163 HGV's plus 56 HGV movements recorded on Saturday. The peak hourly flows vary between 46 and 277 movements. The assessment advises that the overall traffic volumes are low in absolute terms, even at the busiest times. The 24-hour flow is comparable to the peak hour capacity of a 7.3m wide trunk road. The peak hour flows recorded of 277 movements are comparable with the capacity of a single-track road with passing places (between 50 and 300 movements per hour).

- 6.14 In terms of the Gonsal Quarry traffic, the daily HGV flows through Condover were seen to vary significantly, between 4 loads / 8 movements and 30 loads / 60 movements per day. The peak number of loads leaving the site in any hour was 6 on Wednesday 30th September 2020. On the basis that it takes between 10 - 20 minutes to process, load and release a vehicle from the site, this could result in a worst level of 12 movements per hour during the peak period of activity which equates to 1 HGV movement every 5 minutes at peak efficiency. In terms of overall HGV traffic on the road network, it was found that Gonsal HGVs represented between approximately 20 – 70% of the flow near to the site access; 15 – 53% at Site 3 near the shop; and 14 – 48% to the north of the school. Hence, a significant proportion of the HGV activity on the local road network through Condover is not associated with Gonsal Quarry.
- 6.15 An annual production level of 150,000 tonnes and a 5.5 day working week results in an average of 27.3 (say 28) loads / 56 HGV movements per day for a 20-tonne payload (reducing by 50% for a 30-tonne payload). Reducing this by 27% to 110,000 tonnes per annum as currently proposed results in an average of 21 loads (42 movements) for a 20-tonne payload and 14 loads (28 movements) for a 30-tonne payload. This now represents on average approximately ¼ of total weekday HGV traffic movements through the village, though given the intermittent nature of the use levels can at times approach 50% of total weekday HGV traffic levels.
- 6.16 The transport assessment found that the recent activity has not led to any significant or unusually high number of personal injury accidents involving the larger HGVs typically associated with quarrying activities; with only one incident involving an HGV over 7.5 tonnes in a 21-year period and none within the most recent 5 year period. Local residents have queried this conclusion based on the number of near miss and minor incidents which they advise go unreported.
- 6.17 The transport assessment accompanying the previous application put forward potential mitigation measures to reduce the impact of quarry traffic on the local road network, but these were not supported by the Parish Council and are excluded from the current transport assessment.
- 6.18 A former proposal to establish a satellite depot at Norton Farm north of Condover is also not now being pursued following refusal of this application in March 2021. However, the 9p per tonne highway maintenance levy imposed on the existing planning permission would remain and together with money currently paid by the applicant and or due from existing quarrying operations (c£50k) this would yield approximately £115k for highway improvements. Such moneys would be available for works to be agreed by the Highway Authority in consultation with the Parish Council. This could include:
- i. Reduction of speed limit from 30mph to 20mph;
 - ii. General improvements to the carriageway condition in the village.
- 6.19 If the current application is approved, then the applicant would be prepared to make the £65k expected from the future tonnage levy available instead as a lump sum at an early stage. This would in turn facilitate early implementation of a more substantive mitigation scheme of benefit to all road users. This would include the 75% on average of HGV / large vehicle users which would not be associated with the future quarrying

use. Such benefits would extend beyond the remaining 6-year duration of the proposed quarrying operation.

- 6.20 Additionally, the applicant is also to prepared to accept a planning condition which commits to not dispatching vehicles from the quarry during the peak delivery and collection times for Children at Condover Primary School. It is accepted that these times are staggered for different age groups. However, restricting despatch of HGV's within the peak 30 minute morning and afternoon periods would have a significant beneficial effect in highway terms given the greater tendency for the road to be partially obstructed by parents cars at these peak times. The benefits of this have been emphasised by the Highway Authority and an appropriate condition has been included in Appendix 1.
- 6.21 Highways Development Control officer has not objected to the application and has advised that it would be very difficult to defend a highway objection given that the quarry has been in operation for decades obtaining access through Condover. The applicant's transport assessment has indicated that the level of traffic on Station Road is not high by national standards and the road does not have a bad accident record with no recorded accidents in the past 5 years.
- 6.22 Paragraph 111 of the NPPF advises that 'development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe'. It is not considered that continued use of the access route through Condover at a reduced rate relative to historic levels of 110,000 tonnes per annum for a further 6 years would give rise to an unacceptable new impact on highway safety or severe residual impacts on the local highway network. Consideration of this application also needs to be seen in the context of NPPF paragraph 211 which advises that when determining planning applications, great weight should be given to the benefits of mineral extraction, including to the economy.

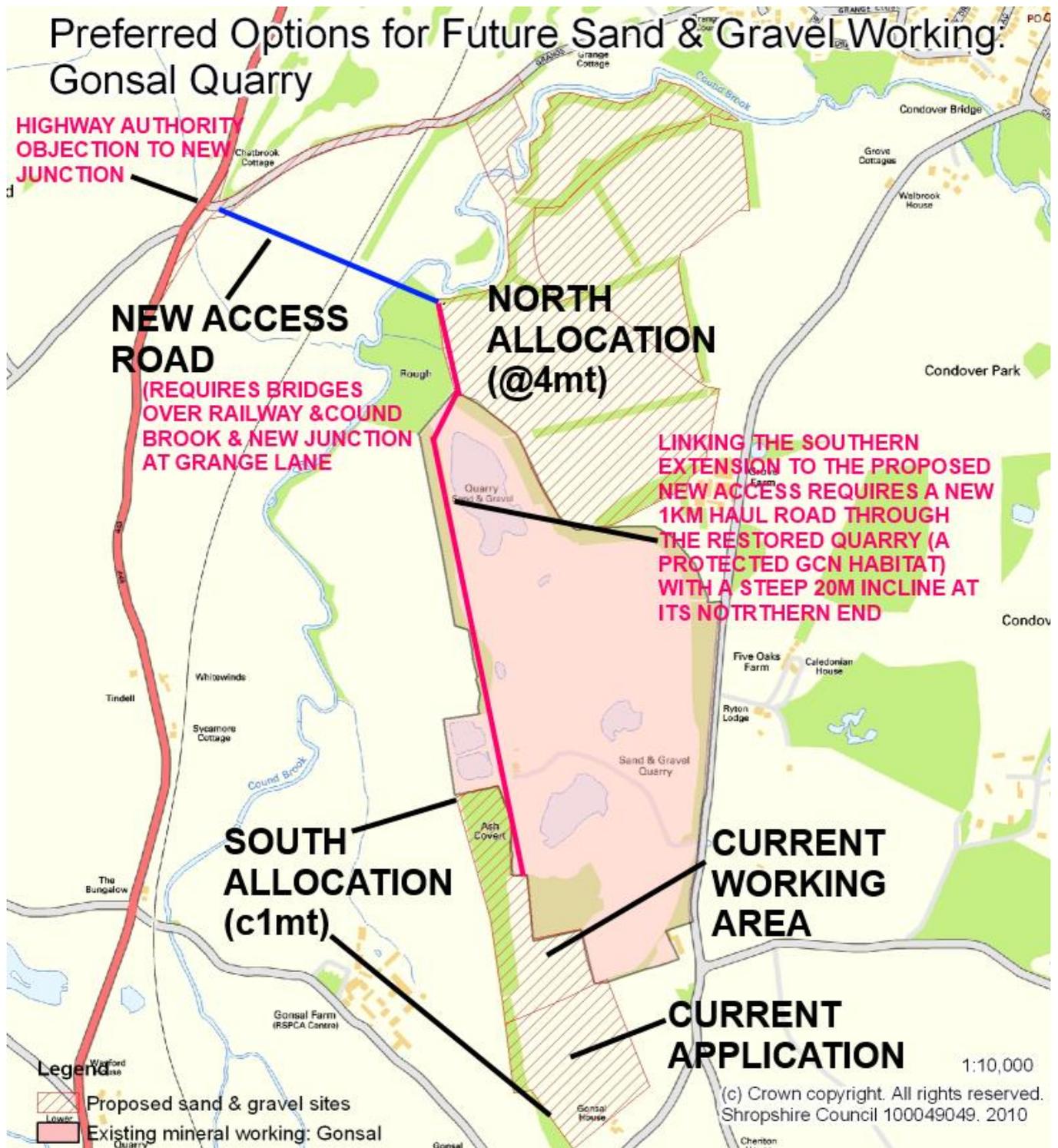


Figure 4 – Gonsal Quarry SAMDev Allocations and annotation

6.23 Highways – Alternative Access: The site and a much larger northern extension to Gonsal Quarry are allocated by Policy MD5b (see Figure 4 above). The development guidelines accompanying the policy indicate that any application should obtain access to the allocated sites by means of a new access road linking to the A49. However, the applicant advises that the relatively small southern extension cannot bear the significant (£2m+) cost of the new access. Operational considerations would also

preclude this, as it would be necessary to provide a new haul route through the worked-out quarry void which is undergoing restoration to a protected Great Crested Newt Habitat under a license from Natural England. Additionally, Highways England maintains an in-principle objection to proposals for new single-use junctions onto Trunk Roads. It had been hoped historically that improvements to the stretch of A49 west of Conover would offer the opportunity for improvements to the Grange Lane junction which could then accommodate a new quarry access. However, Highways England has not so far progressed this work.

6.24 The justification for the development guideline requirement to construct a new access to the A49 forms an important element of objections to the quarry extension proposals and this matter is likely to be scrutinised closely at the forthcoming Inquiry into refusal of the previous applications. It is appropriate for the officer to set out his understanding of the situation which is based on over 32 years of experience in minerals planning. The officer, who is responsible for all mineral sites in Shropshire, was consulted by the Planning Policy team on the wording of the SAMDev mineral Policies when these were being formulated in 2013/14 but was not consulted at the same time on the wording of the development guidelines accompanying the policy. Had there been a consultation the following advice would have been provided to the policy team:

- i. The Policy Team will be aware of an outstanding objection from the Highway Authority to the principle of the new access onto the A49 which calls into question the deliverability of the proposed new access;
- ii. If the Highway Authority objection can be overcome the larger northern allocation could potentially sustain the significant cost of the new access to the A49 (including new bridges over the Cound Brook and the Shrewsbury-Hereford line due to the much greater amount of mineral it contains (c4mt). However, this is not the case for the smaller southern extension which contains less than 1mt of mineral;
- iii. The development guidelines conflate both allocations and there is an implicit assumption that they will come forward at the same time. In practice however it was never the case that both allocations would come forward at the same time. Gonsal Quarry would continue to be worked in a phased way like all other sand & gravel quarries in Shropshire. The 2 allocations are in completely different areas 1km apart and severed by the former quarry void which is undergoing restoration to a protected GCN habitat under license from Natural England. The logical sequence would be for the southern allocation to be worked first as it directly adjoins the existing workings and is accessible to the existing quarry plant site and associated infrastructure. This is before any funding from the larger northern allocation could be available to construct a new access.
- iv. It would not be desirable to place a new 1km long haul road linking the southern and northern allocation areas within the former quarry void which is undergoing restoration. This is due to the adverse effect this would have on the habitat restoration objectives of this area. The officer considers that this may not be acceptable to Natural England.
- iv. Even if ecological issues could be addressed any haul road linking the southern allocation to the proposed new access road may not be feasible in engineering and accessibility terms as it would have to negotiate a steep 20m slope at its northern end which is not advisable for a heavily laden quarry HGVs.

- v. The alternative of directing quarry traffic from the south allocation onto the public highway and then back into the northern allocation north of Grange Farm to link with the new access is not considered to be a sustainable option. Additional major cost would be incurred to obtain access across the northern allocation area in order to link with the new access. This is before any profit from the northern allocation would be available.

6.25 Given the above, the officer concludes that the whilst the development guideline requirement for delivery of a new access linking to the A49 can be supported for the northern allocation the justification for this is questionable with respect to the southern allocation. The fact that this has been made a requirement for the southern allocation appears to be due to the generalised nature of the guidance rather than any detailed distinction between the two different allocations or any detailed assessment of how the quarry is likely to be worked in practice. During recent discussions on this matter between the officer, the Planning Policy team and Councillor Morris the policy team representative was not able to provide any material reason why the new access requirement is also included for the southern allocation.

6.26 Notwithstanding this, because the current application does not involve construction of a new access route to the A49 it does not comply with the development guidelines accompanying SAMDev policy MD5b although the proposed extension remains an allocated mineral site. The following considerations should be taken into account in assessing the acceptability of the current proposals in highway terms:

- i. The Highway Authority has not objected to the proposals which involve exporting a reduced rate of up to 110,000 tonnes per year from the quarry relative to historical norms, using the route through Condover;
- ii. The applicant has put forward proposals which are designed to mitigate the impact of quarry traffic during the proposed temporary period of future operation, including highway maintenance funding and a commitment to avoid despatching quarry vehicles during peak school drop off and pick up times.
- iii. The quarrying proposals are relatively small scale and would secure production for up to 6 years at the proposed reduced output rate;
- iv. The quarry has been operating for over 50 years with outputs through Condover which are greater than the level currently proposed (averaging 150-200,000tpa). It was only in 2018 that a reduced output of 50,000tpa was conditioned on the current operational consent*.

Note:* Councillor Morris has received officer clarification that the 50,000tpa limit was not a requirement from the highway authority but was instead a voluntary commitment from the applicant. The offer to accept a lower output limit was made at the time by the applicant having regard to the specialist nature of the mineral in the small currently approved working area which was not at the time expected to sustain greater levels of market demand. There was however no presumption that this would apply to the more varied resource contained in the currently proposed extension area. In the event, unforeseen circumstances including temporary closure of a nearby competitor quarry have led to significantly increased demand with consequent pressure on output. The applicant has been able to find additional pocket of more varied mineral beneath the permitted plant site area, leading to an upward pressure on output.

- v. There have been no fundamental changes in the design and circumstances of the local highway though there is a general trend towards increased traffic and larger HGVs;
- vi. The transport assessment advises that the level of traffic recorded through Conover Village is not high based on national standards and equates to the level which might be expected for a single-track road with passing places;
- vii. The transport assessment advises that the road has a generally good accident safety record though local residents refer to unreported and near miss incidents;
- viii. The development guidelines for Gonsal Quarry are 'guidelines' as opposed to 'preconditions' for development. They indicate the preferred criteria of the planning authority for developing the allocated site at Gonsal south. They are a material consideration which the authority must have regard to, though they do not form part of the wording Policy MD5 itself. The preceding section explains that there is a question over why the Council's planning policy team decided to conflate the smaller southern allocation with the much larger northern allocation in identifying the requirement for a new access to the A49. The applicant's justification for not developing the new access must be considered on its merits having regard to extenuating factors such as the cost and feasibility of developing the new access and the impacts associated with continuing to use the existing access route.

6.27 The applicant has reiterated in the context of the current application that delivery of the new access to the A49 is not viable in the context of the current application. Accordingly, the applicant has submitted the current application for the smaller southern allocated site. This seeks continuation of existing historical access arrangements through Conover for a further temporary period in association with a highway mitigation package. The applicant is entitled to apply not to comply fully with the development guidelines set out in the SAMDev policy which support the policy whilst not form part of the policy itself. The current application must be considered on its individual merits. In this case the Highway Authority has not objected and has advised that refusal on highway capacity grounds could not be substantiated. This conclusion is strengthened further as the current proposals involve an annual output of 110,000tpa which is c25% less than the level of 150,000tpa being proposed in the previous application. The applicant has advised that this is the minimum output level which can be sustained whilst maintaining viability of the business.

6.28 Notwithstanding this, the applicant has recognised the concerns of the Parish Council and local residents regarding quarry traffic passing through Conover and has put forward a mitigation package. This includes payment of @£115k in total (@£65k from the current application) towards highway maintenance / mitigation – subject to agreement with the Parish Council. The Transport Statement identifies that the quarry contributes between 25 and 50% of heavy traffic through Conover. There is no mechanism available to recover equivalent funding from other non-quarry HGV traffic. In this respect the current proposals offer the opportunity to provide some mitigation for all HGV traffic which would not otherwise be available. Whilst the concerns of the Parish Council and local residents are acknowledged clear advice has been provided from the Highway Authority that any residual highway impacts after mitigation would not be sufficiently severe to justify refusal on highway grounds.

- 6.29 Noise: The NPPF requires Mineral Planning Authorities to have regard to the need to protect local residents living near mineral sites from quarry related noise. The technical guide to the NPPF provides further guidance on the levels of noise which are acceptable (s30). Subject to a maximum of 55dB(A)LAeq, 1h, MPA's should aim to establish a noise limit at the noise-sensitive property that does not exceed the background level by more than 10dB(A). It is recognised, however, that in many circumstances it will be difficult to not exceed the background level by more than 10dB(A) without imposing unreasonable burdens on the mineral operator. In such cases, the limit set should be as near that level as practicable during normal working hours (0700-1900) and should not exceed 55dB(A) LAeq, 1h. Increased daytime limits of up to 70dB(A)Leq 1h are also allowed for short-term operations up to 8 weeks per year where this would generate benefits such as improved screening (NPF Guide s31).
- 6.30 The Environmental Statement includes a noise report which predicts noise levels at the nearest sensitive properties in accordance with methodology set out in national guidance (BS 8233, BS4142, WHO guidelines and NPPF). The report concludes that calculated noise levels from the proposed development do not exceed relevant criteria and are unlikely to generate noise complaints from any of the locations assessed. Public Protection has not objected to the proposals. There is no history of noise complaints at the site and the proposed workings would be separated and set down relative to the nearest residential properties. A condition controlling noise has been recommended in Appendix 1. Subject to this it is considered that noise is capable of being controlled acceptably at the site.
- 6.31 Dust / Air Quality: The Environmental Statement has considered the potential for different activities to generate dust and methods of controlling dust have been identified in accordance with a Dust Action Plan. A source of water for dust suppression would be retained permanently on site. The nearest privately owned properties are separated by distance and existing topography and workings would be set down relative to these properties. The ES concludes that the proposed measures would ensure that dust continues to be controlled within acceptable levels. These conclusions are generally supported by experience of the existing workings where there has been a general absence of previous dust related complaints. An appropriate condition covering dust control has been recommended.
- 6.32 Visual Impact: The site is not located within a nationally designated landscape. The existing quarry and the proposed development are located to the west of Conover Park, a Registered Historic Park and Garden. A landscape appraisal identifies the current baseline situation including landscape character and visual receptors who have potential views of the site and the proposed development. The appraisal concludes that the effect on the landscape would be moderate beneficial following restoration due to reinstatement of the proposed valley landform. Visually there would be a substantial impact to residents of Gonsal House during working. It is proposed to place temporary straw bales of ~3m in height along the boundary of the Southern Extension. These will mitigate views of the site from ground level windows and the garden / curtilage. There are not many upper floor windows which face the direction of the proposed development. The owners of this property wrote in support of the previous application. There would be a slight to moderate adverse visual effect for 10 other nearby properties.

- 6.33 Visually the existing site and the proposed extension are well contained, being set down relative to surrounding areas and surrounded by mature vegetation from most potential viewpoints. The assessment concludes that the landscape can accommodate the proposals and would not give rise to any significant adverse impact, with the exception of mitigated views from Gonsal House. The visual assessment concludes that the landscape and visual effects resulting from the proposed development would be temporary, progressive and localised. It is considered that the design and temporary nature of the proposals and the contained nature of the site should ensure acceptability in relation to landscape and visual impacts.
- 6.34 Agriculture: The NPPF advises (para. 170b) that Local Planning Authorities should take into account the economic and other benefits of the best and most versatile agricultural land. Where significant development of agricultural land is demonstrated to be necessary, local planning authorities should seek to use areas of poorer quality land in preference to that of a higher quality. An agricultural report concludes that all of the land in the 4.9ha extension area is of best and most versatile quality with 1.27ha (25.9%) being Grade 1, 1.28ha (26.1%) being Grade 2 and 2.35ha (48%) being Grade 3a. The restoration proposals involve formation of a 2ha agricultural field 100m to the north-east of the southern extension area. The best quality soils (Grade 1 and 2) would be reserved for use in this area. Grade 3a soils would be used to form areas of acid grassland surrounding the proposed central lake where the soil resource would be conserved and the land would remain available for grazing use (see Plan 3 above).
- 6.35 It is not considered that an objection can be sustained on the basis of loss of 2.9 ha of best and most versatile land given the overriding need to achieve a restoration which complies with the requirements of the Habitats Regulations and delivers biodiversity net gain. Appropriate detailed agricultural conditions have been recommended in Appendix 1. Subject to this it is concluded that the proposals can be accepted in relation to relevant development plan policies and guidance covering agricultural land including NPPF paragraph 170b and Core Strategy Policy CS17.
- 6.36 Archaeology and Cultural Heritage: An archaeological assessment concludes that the extension area has a low to moderate potential for significant archaeological remains. there is no to negligible indications of Palaeolithic, Mesolithic, Iron Age and Roman archaeology within the site and its surrounding vicinity. There is trace of Neolithic to Bronze Age activity surrounding the site but not within it. Medieval remains have no evidence of presence within the site boundary and the potential for activity of this period is assessed as negligible. There is moderate potential for Post-Medieval features to exist however they are of no more than local significance. Three conservation areas and a number of listed buildings lie in the broad vicinity of the site, however, these are mostly at least 500m or more distant from the proposed extension area and are largely screened by existing tree lines or as a result of local topography. Overall, no clear archaeological or cultural heritage constraints have been identified that would render the proposals contrary to the objectives and policies of the development plan.
- 6.37 The applicant has amended the Archaeological Desk Based Assessment to clarify references to the Condover Conservation Area which had been highlighted by Condover Parish Council. Historic England has not objected but has advised that the Council's Historic Environment Team should be consulted. The Conservation team

(Historic Environment) has not objected and the archaeologist (Historic Environment) has requested a condition requiring submission of a written scheme of investigations and this is included in Appendix 1. The Historic Environment Team Leader has advised that raising any objections on the ground of prospective impacts on the Conservation Area arising from increased HGV movements would be very difficult to sustain at appeal; particularly as the quarry is an ongoing concern, the annual output has been reduced in this latest application, and the Highway Authority has raised no objections. The Team Leader is not aware that there is any evidence available that would support such an objection.

- 6.38 Ecology: An ecological assessment accompanying the EIA advises that no statutory / non-statutory sites of nature conservation interest have been identified in any locations which could be impacted upon by the proposals. Two populations of Great Crested Newts within the existing site are of national significance. Other habitats of local value adjacent to or within the site include semi-natural broadleaved woodland adjacent to the Cound Brook, unimproved acid grassland, open standing water, open running water, species-rich hedgerow along the southern side of Grange Lane, invertebrate assemblages associated with acid grassland, wetland, bare ground and ephemeral/short perennial habitats, breeding dunnock, bat foraging and badger - setts and foraging.
- 6.39 The on-going previously permitted works at Gonsal Quarry are being undertaken under European Protected Species (EPS) mitigation licences from Natural England (licence references are 2019-42258-EPS-MIT and 2019-39762-EPS-MIT-1 copies are available on request). Two licences were issued because the licence application was made under new licensing policy 1 which allows for incidental killing. These licenses were obtained under the existing planning permission. Minor modifications to these licences may be required as a result of any permission relating to the current application. However, working linked to any permission for the current application would be capable of proceeding initially under the existing license.
- 6.40 It should be noted that the proposed restoration scheme associated with the current application provides even more potential breeding and high-quality terrestrial habitat than that currently licenced. The applicant is willing to accept a new planning condition with respect to GCN. This would stipulate that whilst the quarry can continue working in accordance with the existing licences and good practice guidelines, if a modification to the licence is required then this shall be applied for within one month of any permission. The assessment concludes that providing all proposed mitigation and compensation measures are undertaken ecological habitats and species will benefit to a greater extent than currently. All legally protected species recorded on the Site will be protected throughout the duration of the works and mitigation, compensation and enhancement measures will be undertaken wherever necessary.
- 6.41 The proposed works and restoration scheme have been specifically designed to avoid or minimise adverse impacts on wildlife habitats and to retain them in-situ where feasible. The ecology report predicts no adverse residual impacts on features of nature conservation value. Positive impacts are predicted for most habitats which may increase in value as they mature. The restoration works within the existing void are therefore capable of being managed separately to ensure that they are not affected by ongoing quarrying and mineral processing activity elsewhere within the site.

6.42 Ecology – Habitats Regulations: The 2010 Habitats Regulations implement EU Directive 92/43/EEC (the Habitats Directive) which has been transposed into UK statute following Brexit. Article 12 of the Directive contains a range of prohibitions seeking to protect certain species (European Protected Species). Article 16 provides for a number of circumstances in which a Member State may derogate from the obligations in Article 12. The Habitats Regulations (Regulation 41) make a breach of the Article 12 provisions a criminal offence. This is implemented by way of a licensing regime (Regulation 53). Regulation 9(5) provides that “a competent authority, in exercising any of their functions, must have regard to the requirements of the Habitats Directive so far as they may be affected by the exercise of those functions”. A Planning Authority is a competent authority for the purposes of these Regulations and must consider the likelihood of a license being granted, in deciding whether to grant planning permission. The licencing authority is Natural England. In this particular case a large meta population of Great Crested Newts, a European Protected Species, are present in the worked out area of the quarry.

6.43 Natural England advises that three tests should be applied by Planning Authorities in assessing the potential impact on protected species. These are assessed as follows with respect to the Great Crested Newt population at Gonsal Quarry:

1. Is the proposed activity ‘not detrimental to the maintenance of the populations of the species concerned at a favourable conservation status in their natural range’?

Officer response: The amended restoration proposals have been designed specifically to protect and enhance the habitat of GCN within the site and have been formulated in the context of an existing Protected Species license for GCN issued by Natural England. With respect to the proposed southern extension area, this is spatially separate from the identified GCN habitat area in the worked out quarry void and is capable of being isolated and managed separately during the on-going quarrying operations. As existing intensively farmed agricultural land located some distance from the main water bodies containing GCN the extension area would reasonably be expected to have limited value as a GCN terrestrial foraging habitat. Much better foraging habitats exist nearer to the GCN water bodies, including to the west of the site adjacent to the Cound Brook. The intended working area beneath part of the plant site already has the benefit of planning permission for mineral working. Planning officers are satisfied in principle therefore that the further mineral extraction proposals should not impact adversely on GCN habitats elsewhere within the site and that the restoration proposals have the potential to significantly enhance the GCN habitat. Additional detailed safeguards with respect to GCN would be agreed as part of any amendment to the existing Protected Species Licence issued by Natural England. The first test is therefore met.

2. Is the development ‘in the interests of public health and public safety, or for other imperative reasons of overriding public interest, including those of a social or economic nature and beneficial consequences of primary importance for the environment’?

Officer response: The current restoration proposals for the existing quarry void are subject to an existing protected species license issued by Natural England. It is of primary importance to secure the productive afteruse of this area as a wildlife reserve for GCN. Further mineral working is capable of being undertaken in principle without impacting adversely on ecological interests within the area of restoration, given that the proposed areas for continued operation and restoration are spatially separate within the site. Restoration proposals would extend the GCN habitat into the extension area, further enhancing and extending this habitat. The second test is therefore met.

3. Is there 'no satisfactory alternative'?

Officer response: Paragraph 203 of the NPPF advises that 'Since minerals are a finite natural resource, and can only be worked where they are found, best use needs to be made of them to secure their long-term conservation'. The alternative of leaving the proposed extension area unworked would not be acceptable as it would result in sterilization of mineral in an allocated quarrying area and in conflict with SAMDev Policy MD16. The applicant's ecological report supports the conclusion that the proposal to work additional mineral in a separate area of the site would impact adversely on GCN interests. Therefore, there is no requirement to consider alternative proposals for mineral working. The third test is therefore met.

- 6.44 Natural England has not objected to the current application. It is concluded that the proposals are capable of being accepted in relation to relevant policies and guidance covering ecology, including Core Strategy Policy CS17. This is provided robust mechanisms are put in place to ensure that the potential habitat benefits referred to in the ecology report are delivered in practice. Appropriate ecological conditions are recommended in Appendix 1 with this objective in mind. Aftercare management of the site is considered in the succeeding section.
- 6.45 Aftercare Management: The NPPF (paragraph 204h) requires Mineral Planning Authorities such as Shropshire to put in place policies to ensure worked land is reclaimed at the earliest opportunity. High quality restoration and aftercare of mineral sites should take place, 'including for agriculture, geodiversity, biodiversity, native woodland, the historic environment and recreation'. SAMDev Policy MD17 and Core Strategy Policy CS20 support this objective. The current application adopts an integrated approach to site restoration and aftercare within the whole quarry site. This would be supported by recommended conditions and legal obligations set out in Appendix 1 including a requirement for 10 years aftercare for habitat areas.
- 6.46 It is considered that the applicants' aftercare management proposals for the wider quarry site meet and exceed the requirements of the paragraph 204 of the NPPF and SAMDev Policy MD17. They also have the potential to deliver significant interconnected habitat areas within the restored site in accordance Core Strategy Policy CS17.
- 6.47 Hydrology and water resources: A hydrological assessment concludes that any potential risks to groundwater and flows within the Cound Brook can be adequately controlled using established good practice measures. There have been no incidences of silt pollution or flooding attributed to quarrying operations previously and the

proposed extension would occupy a limited area within the overall quarry site. The proposed extension area is located outside of the flood plain. The restoration proposals involve provision of a series of ponds where levels will be controlled by natural soakaway effect. A one in 100 year flood event would equate to an average increase in the depth of water across the restored area of 60 mm. Sufficient storm water storage would also be provided within the operational site to deal with a 1 in 100-year event, with provision for temporary discharges to the Cound Brook under an existing Environment Agency discharge consent. Dewatering water would continue to be discharged to the Cound Brook so there would be no significant net effect on the flows in this watercourse.

- 6.48 The Environment Agency has not objected subject to conditions on pollution control which are included in Appendix 1. Subject to this it is concluded that the proposals can be accepted in relation to development plan policies and guidance covering hydrology including Core Strategy policy CS18.

Other issues

- 6.49 Socio-economic: The existing Quarry contributes, in financial terms, to the economy, much of which is spent locally on goods and services, including salaries, business rates, service contracting, hire of equipment and capital expenditure. The Quarry supports a total of approximately 5 jobs on site and further indirect employment, including for owner-drivers of quarry vehicles. Much of the employment generated is of a skilled and semi-skilled manual nature under-represented in the local economy. These effects would be maintained.
- 6.50 Infrastructure Contribution: The applicant has agreed to pay a sum equivalent to 9 pence per tonne towards maintenance of the public highway with respect to the mineral in the current application area. This is equivalent to a legal commitment made with respect to the current quarrying consent. Furthermore, the applicant has agreed to front load this payment so that funding to facilitate agreed highway improvements will be available to the Highway Authority at an early stage in the proposed development.
- 6.51 Interactions and cumulative effects: The Environmental Statement contains an assessment of interactions between different types of impact. It concludes that the restoration proposals would not involve any negative interactions as agricultural and ecological uses and landscape continuity would be maintained. The proposed management measures for the restored site should assist in ensuring positive interactions between different aftercare land uses.
- 6.52 Carbon management and climate change: The proposals would not lead to an increased risk of flooding. The restoration proposals would lead to increased habitats, thereby helping to manage the effects of climate change on biodiversity. The applicant has committed to ensure energy efficiency and to reduce the carbon footprint of its operations. As a local supplier of sand and gravel the company is able to reduce the distance and hence the amount of transportation between its mineral products and its customers. If the current proposals were not to proceed then local customers would have to source aggregate from further afield, thereby increasing the carbon footprint.

Planning Appeal

- 6.53 As stated at the beginning of this report, refusal of the previous application and the linked application for a satellite depot is now subject to a conjoined appeal which is scheduled to be heard at a 4-day public Inquiry commencing on 5th December. However, the applicant has advised that the Inquiry would be withdrawn if the current application is approved. As such, the current application and the forthcoming appeal are interlinked.
- 6.54 The current application represents an improvement on the previous application in that the applicant has now committed to a lower output of 110,000tpa as opposed to the previously proposed level of 150,000tpa. Additionally, highway maintenance funding would be maintained and front-loaded providing a potential benefit to all traffic. This includes the up to 75% of non-quarry related heavy vehicle traffic which also uses the route through Condover village. This funding is not available from other sources. If the current application is refused and the applicant's appeal succeeds then quarry HGV's would be able to pass through the village at the increased rate of 150,000tpa and with no guarantee that an Inspector would support the requirement for highway maintenance contribution funding.
- 6.55 If the Council had a strong case at the appeal then there would be greater certainty that it would be able to successfully defend its refusal reason. However, the reason is based primarily on concerns about highway safety with associated concerns about effects on the Condover Conservation Area and general amenity. These concerns are not supported by either the Highway Authority or the Council's Historic Environment section, neither of whom have objected and both of whom have advised that it would be difficult to defend a refusal reason on their respective grounds. Legal advice obtained by the council cannot be disclosed in detail here but supports this conclusion. Hence, the scenario that the Council could well lose the appeal needs to be actively acknowledged. In this respect the officer considers that whilst the current application does not address local objections it represents an improved offer relative to the previous application which does go some way towards addressing local concerns. It also represents a significant improvement relative to the scenario which would be likely to apply if the applicant's appeal succeeds. Any residual concerns must be seen in the context of NPPF guidance which states that 'when determining planning applications, great weight should be given to the benefits of mineral extraction, including to the economy' (Paragraph 211).
- 6.56 There is nothing to prevent a planning committee from taking a decision contrary to the officer recommendation. Members are however reminded of the need to ensure that any such decision is fully supported by detailed evidence.

Planning Practice Guidance on appeals advises that 'where a party has behaved unreasonably, and this has directly caused another party to incur unnecessary or wasted expense in the appeal process, they may be subject to an award of costs'. 'The aim of the costs regime is to:

- encourage all those involved in the appeal process to behave in a reasonable way and follow good practice, both in terms of timeliness and in the presentation of full and detailed evidence to support their case;

- encourage local planning authorities to properly exercise their development management responsibilities, to rely only on reasons for refusal which stand up to scrutiny on the planning merits of the case, not to add to development costs through avoidable delay,
- discourage unnecessary appeals by encouraging all parties to consider a revised planning application which meets reasonable local objections.

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’.

‘Local planning authorities are at risk of an award of costs if they behave unreasonably with respect to the substance of the matter under appeal, for example, by unreasonably refusing or failing to determine planning applications, or by unreasonably defending appeals. Examples of this include:

- preventing or delaying development which should clearly be permitted, having regard to its accordance with the development plan, national policy and any other material considerations.
- failure to produce evidence to substantiate each reason for refusal on appeal
- vague, generalised or inaccurate assertions about a proposal’s impact, which are unsupported by any objective analysis.
- refusing planning permission on a planning ground capable of being dealt with by conditions risks an award of costs, where it is concluded that suitable conditions would enable the proposed development to go ahead
- acting contrary to, or not following, well-established case law
- persisting in objections to a scheme or elements of a scheme which the Secretary of State or an Inspector has previously indicated to be acceptable
- not determining similar cases in a consistent manner
- failing to grant a further planning permission for a scheme that is the subject of an extant or recently expired permission where there has been no material change in circumstances
- refusing to approve reserved matters when the objections relate to issues that should already have been considered at the outline stage
- imposing a condition that is not necessary, relevant to planning and to the development to be permitted, enforceable, precise and reasonable in all other respects, and thus does not comply with the guidance in the National Planning Policy Framework on planning conditions and obligations
- requiring that the appellant enter into a planning obligation which does not accord with the law or relevant national policy in the National Planning Policy Framework, on planning conditions and obligations
- refusing to enter into pre-application discussions, or to provide reasonably requested information, when a more helpful approach would probably have resulted in either the appeal being avoided altogether, or the issues to be considered being narrowed, thus reducing the expense associated with the appeal
- not reviewing their case promptly following the lodging of an appeal against refusal of planning permission (or non-determination), or an application to remove or vary one or more conditions, as part of sensible on-going case management.

- if the local planning authority grants planning permission on an identical application where the evidence base is unchanged and the scheme has not been amended in any way, they run the risk of a full award of costs for an abortive appeal which is subsequently withdrawn (para 049).

6.57 Local Planning Authorities who have refused applications for major development but have not then been able to evidence their refusal reasons at appeal have been subject to awards of costs against them. This includes situations where applications have been refused on technical matters such as highways against the advice of the Highway Authority.

6.58 In this case the Highway Authority and the Historic Environment team have not objected to the current application and did not object to the previous refused application. The ability to defend the previous highway and heritage based refusal reason at appeal must be seen in this context. The officer is not aware of any new information relating to highway safety and / or the historic environment which would suggest the need for these consultees to re-consider their responses at this stage.

6.59 The appellant has given an estimate of £250k for their costs. This is not considered unrealistic for an appeal of this nature which would necessitate appointment of a QC and multiple expert witnesses over the 4-day Inquiry period. It is estimated that the Council's costs would be about half this. The ultimate decision on whether to offer a defence for a major any appeal of this nature rests with the Deputy Director for Economy & Place, having regard to the likelihood that the Council would be able to mount a successful defence which reduces the potential cost liability. Officer advice is clearly that:

- 1) The current application should not be refused on highway or heritage grounds without appropriate technical evidence to justify this position.
- 2) Given the absence of objection from the highway authority and the historic environment team approval of the current application would potentially lead to a better outcome for the local community than allowing the current appeal to proceed, whilst also removing the potential risk of a costs award against the Council.

7. CONCLUSION

7.1 In conclusion, the proposals relate to an allocated mineral site and would secure production at Gonsal Quarry for up to 6 further years at a reduced production rate of 110,000 tonnes per annum. The mineral is a proven resource with an established local market and would contribute towards the county's agreed proportion of sand and gravel production in the West Midlands region. This is in accordance with paragraph 213 of the NPPF and Core Strategy Policy CS20. The proposals would also facilitate a revised and comprehensive restoration and management for the whole quarry. This takes account of protected species interests and would achieve significant habitat creation benefits in accordance with Core Strategy Policy CS17.

7.2 Condover Parish Council and local residents have objected on the basis that the proposals would involve continued use of the road through Condover by quarry traffic.

The proposals do not involve provision of a new access to the A49 which is referred to in the development guidelines accompanying SAMDev Policy MD5b. However, the limited amount of mineral in the current site is insufficient to fund the major cost involved and the applicant has also concluded that a new access is not viable in practical terms. The current application therefore proposes continued access through Condover at a level which well below that of historical traffic movements from the quarry. There is nothing to prevent the applicant from applying not to comply with the development guidelines which support but do not form part of Policy MD5. The application must be considered on its merits.

7.3 Highway officers have not objected and have advised that refusal on highway capacity grounds could not be substantiated. The applicant has put forward a number of mitigation measures including up-front payment of a highway maintenance sum and a commitment not to despatch vehicles from the quarry during peak school drop off and pick up times. Whilst the concerns of the Parish Council and local residents are noted it is considered that the applicant has put forward appropriate mitigation measures for these temporary mineral working proposals and that such measures have the potential to deliver some mitigation for other non-quarry HGV's which also use the route through Condover which might not otherwise be possible. If the application is refused contrary to officer advice and the current appeal succeeds then the increased output rate of 150,000tpa would apply and the maintenance funding could be withdrawn by the Planning Inspector.

7.4 It is considered that no issues have been identified which would be likely to give rise to unacceptable impacts on the local environment or amenities which would justify refusal once mitigation has been taken into account. This is having regard to the inbuilt safeguards in the design of the scheme and the recommended planning conditions. The proposals also have the potential to significantly enhance the habitat potential of the restored site. It is concluded that proposals are sustainable and can be accepted in relation to relevant development plan policies and guidance and other material planning considerations.

8.0 RISK ASSESSMENT AND OPPORTUNITIES APPRAISAL

8.1 Risk Management

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

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

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

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

- 8.2 Human Rights: Article 8 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.
- 8.4 Financial Implications: There are likely financial implications of the decision and/or imposition of conditions if challenged by a planning appeal or judicial review. The costs of defending any decision will be met by the authority and will vary dependant on the scale and nature of the proposal. Local financial considerations are capable of being taken into account when determining this planning application – in so far as they are material to the application. The weight given to this issue is a matter for the decision maker.

9. BACKGROUND

Relevant Guidance and Planning Policies

National Planning Policy Framework: Summary of relevant minerals guidance:

9.1 Shropshire Core Strategy

- Policy CS5 (Countryside and Green Belt) – allowing for development on appropriate sites within the countryside that maintain and enhance countryside vitality and character where they improve the sustainability of rural communities by bringing local economic and community benefits, particularly where they relate to specified proposals including: required community uses and infrastructure which cannot be accommodated within settlements;
- Policy CS6 (Sustainable Design and Development Principles) – requiring designs of a high quality to respect and enhance local distinctiveness, mitigating and adapting to climate change
- Policy CS8 (Facilities, Services and Infrastructure Provision) – seeking the development of sustainable places by preserving and improving facilities and services; facilitating the timely provision of additional facilities, services and infrastructure to meet identified needs in locations that are appropriate and accessible; positively encouraging infrastructure where this has no significant adverse impact on recognised environmental assets
- Policy CS9 (Infrastructure Contribution);

- Policy CS16 (Tourism, Culture and Leisure);
- Policy CS17 (Environmental Networks) – to identify, protect, enhance, expand and connect Shropshire’s environmental assets;
- Policy CS18 (Sustainable Water Management) – to reduce flood risk; to avoid an adverse impact on water quality and quantity
- Policy CS20 (Strategic planning for Minerals) Note: Gonsal Quarry associated with the current application is within an area identified as a broad location for future mineral working in the plan accompanying policy CS20.

9.2 SAMDev Plan:

- MD2 – Sustainable Design
- MD4 - Managing Employment Development
- MD5 - Sites for Sand and Gravel Working
- MD7b– General Management of Development in the Countryside
- MD12: The Natural Environment
- MD13: The Historic Environment
- MD15 - Landfill and Landraising Sites
- MD16 - Mineral Safeguarding
- MD17: Managing the Development and Operation of Mineral Sites

10. RELEVANT PLANNING HISTORY:

- 13/00336/EIA Proposed extension to Gonsal Quarry and restoration for nature conservation benefits including water areas, woodlands, species rich conservation grassland and associated landscaping works incorporating new woodland planting together with the retention of the existing processing plant, silt lagoons and haul route. GRANT 25th April 2018
- 18/05003/DIS Discharge of condition 8(a)b) (Hedgerows) 16(a) (Groundwater Monitoring) 16(b) (Trigger Levels) 17 (Hydrology) 23(c) (Noise Monitoring Scheme) 24(a) (Details of Reversing Alarms) 25(b) (Dust Monitoring Scheme) 31(a) (Details of Fencing and/or Boundary Treatments) 35(i-vi) (Measures for Slope Stability) 36 (Soil Bunds) 37 (Soil Handling Strategy) 49(b) (Restoration and Landscaping) 50 (Habitat Management Plan) attached to planning permission 13/00336/EIA Proposed extension to Gonsal Quarry and restoration for nature conservation benefits including water areas, woodlands, species rich conservation grassland and associated landscaping works incorporating new woodland planting together with the retention of the existing processing plant, silt lagoons and haul route. DISPAR 25th January 2019
- 19/00178/SCO Minor southern extension and release of previously sterilised mineral utilising existing processing plant, silt lagoons and access with associated restoration for habitat creation and wildlife enhancement SCO 2nd April 2019
- 20/03173/MAW Formation of southern extension; new extraction beneath existing lagoons and progressive restoration for a period of 6 years. Refused
- 20/05371/FUL Development of a satellite stocking yard to serve operations from Gonsal Quarry. Refused
- SA/77/0755 Extension of sand and gravel workings - discharge conditions 7, 10, 2, 13 and 14 attached to planning permission ref. No. S73/5561 dated 30th July 1975. PERCON 2nd November 1977

- SC/MS1998/0659/SY Erection of plant for the production and distribution of ready mixed concrete and screeds NPW 5th June 2017
- SC/MS1988/1170/SY Extension to existing quarry and restoration to agricultural use PERMIT 1st January 1994
- SA/77/0921 Erection of workshop. PERCON 17th January 1978

11. ADDITIONAL INFORMATION

Link to application documents:

<https://pa.shropshire.gov.uk/online-applications/applicationDetails.do?activeTab=documents&keyVal=QXDJLGTD07V00>

List of Background Papers: Planning application reference 20/03173/MAW and the related Environmental Impact Assessment, plans and supplementary reports as listed fully in condition 3 of Appendix 1 attached.

Cabinet Member (Portfolio Holder) Cllr Ed Potter

Local Member Cllr. Dan Morris

Appendices: APPENDIX 1 - Legal obligation heads of terms and recommended conditions

APPENDIX 1

Legal Agreement Clauses

- 1) To agree to an extended period of aftercare for all habitat areas within the total quarry site (including areas worked and restored under previous permissions) which will apply to all identified habitat areas within the Site for a period of 10 years from completion of restoration in each habitat area.
- 2) To agree to manage the aftercare habitat areas within the total quarry site in accordance with the principles set out in the habitat management plan required under Condition 51 below.
- 3) To convene and support an aftercare management steering group throughout the extended aftercare period which shall meet no less than annually and shall comprise representatives from the company, Shropshire Council, the Company and other relevant stakeholders where appropriate. The Steering Group shall review aftercare management actions from the preceding year and will agree the detailed actions for the forthcoming year;
- 4) To agree to use all reasonable endeavours to maintain appropriate control of the necessary land in order to facilitate the objectives of clauses 1 and 2 above;
- 5) To maintain the existing heavy vehicle routing agreement to ensure quarry lorries turn left towards Condover and approach the site from the north, except in case of emergencies or where local access is required.
- 6) To make a payment to the Council based on 9p per tonne for the of mineral exported from the site under this permission for use in maintaining and improving the quarry access route on the public highway through Condover to the A49. This shall be as a single payment to be made within 1 year of the date of any planning permission.

Conditions

COMMENCEMENT OF DEVELOPMENT

1. The development to which this permission relates must be begun not later than the expiration of three years from the date of this permission. For the avoidance of doubt development is defined as the commencement of soil stripping within the extension area to the south of the quarry plant site. The commencement of development within the Site is hereafter referred to as the "Commencement Date".

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

DEFINITION OF THE SITE AND PERMISSION

2. This permission shall relate to the land edged red on Drawing No. M05108(h).D.001(Rev A) hereinafter referred to as "the Site" and comprising the "existing quarry" and the "extension area" to the south of the existing quarry plant site

Reason: To define the Permission.

DEFINITION OF THE PERMISSION

3. Except as otherwise provided by the conditions attached to this permission the development hereby permitted shall be carried out strictly in accordance with:-
- i. The submitted details as contained in the application form dated 5th August 2021.
 - ii. The following documents supporting the application:
 - The planning and Environmental Statement dated September 2021;
 - The Non-Technical Summary dated September 2021;
 - The appendices accompanying the Environmental Statement, namely:

Appendix A – Landscape and Visual Appraisal;
Appendix B – Ecological Appraisal;
Appendix C – Archaeology and Cultural Heritage;
Appendix D - Noise and Dust Environmental Scheme;
Appendix E – Agricultural Land Classification and Soils;
Appendix F – Heritage Impact Assessment;
 - iii. The submitted drawings accompanying the Environmental Statement, namely:

M05108(h).D.001(Rev A) - Location Plan;
M05108(h).003(Rev A) - Block Phasing;
M05108(h).004(Rev A) - Working Sequence 1;
M05108(h).005 (Rev A) - Working Sequence 2;
M05108(h).006 (Rev B) - Working Sequence 3;
M05108(h).007 (Rev C) - Final Restoration;
M05108(h).008 (Rev C) - Overall Restoration;
M05108(h).009 (Rev B) - Schematic Sections.
 - iv. The supplementary information submitted in support of the application, namely:
 - The Transport Assessment by The Hurlstone Partnership (November 2020);
 - The letter from Stantec to Environment Agency dated 12th November 2020;
 - The memo from Robin Smithyman to the Local Planing Authority dated 21st January 2021 concerning highway matters.

Reason: To define the permission.

TIME LIMITS

- 4a. The extraction of sand and gravel from the Site under the terms of this permission shall cease within 5 years of the Commencement Date as defined in Condition 1 above.
- b. The date when extraction of sand and gravel has been completed within the Site under the terms of this permission shall be notified in writing to the Local Planning Authority.

Reason: To define the completion date for mineral extraction operations under the terms of the permission in accordance with the approved details.

5. The Site shall be fully restored within 18 months of the completion of mineral extraction under the terms of this permission and in accordance with scheme required to be approved under Condition 50 below.

Reason: To ensure the full and proper restoration of the Site within acceptable timescales.

6. The Local Planning Authority shall be notified in writing of the following events:-
- i. the commencement of topsoil stripping and mineral extraction in the extension area;
 - ii. the commencement and anticipated completion of restoration in each successive phase within the Site.

Reason: To ensure satisfactory monitoring following the Commencement Date for the various specified operations with the Site.

GPDO RIGHTS

7. Notwithstanding the provisions of Part 17 of the Second Schedule of the Town and Country Planning (General Permitted Development) Order 2015 or any Order revoking or re-enacting that Order, the erection of any additional plant or machinery or structures or erections of the nature of plant or machinery shall not take place within the Site without the prior written approval of the Local Planning Authority. The only exception to this shall be for structures not exceeding 6 metres in height which are located within the existing Processing Plant area identified on the approved plans.

Reason: To enable the control of any further development within the Site.

PLANTING AND SCREENING OPERATIONS AND OTHER PRELIMINARY OR ASSOCIATED WORKS

- 8a. All trees, hedgerows and bushes within the Site but outside the limits of extraction shall be retained and managed and, where appropriate, protected during excavation and restoration works by fencing or other means.
- b. A scheme detailing measures to ensure continued protection of the existing mature hedgerows and woodland within the margins of the Site shall be submitted to and approved in writing by the Local Planning Authority within 3 months of the date of this permission.

Reason: To preserve and protect existing vegetation within the Site.

9. No soil storage shall take place other than in accordance with the details shown on the approved working plans as referred to in condition 3 above.

Reason: To ensure that satisfactory preservation of soils for restoration of the Site.

HOURS OF WORKING AND GENERAL CONTROL OVER OPERATIONS

- 10a. Unless otherwise approved in writing by the Local Planning Authority, or except in the case of emergency, records of which shall be retained for inspection by the Local Planning Authority, the quarrying and associated processing operations and uses hereby permitted shall not take place outside the following hours:-

Mondays to Fridays 07.30 - 17.00 hours

Saturdays 07.30 - 16.30 hours (Maintenance Work only)

No operations shall take place on Sundays, Bank Holidays or other National Holidays.

- b. Access gates located at the entrance to the Site shall be locked or managed to ensure that no heavy goods vehicles enter the Site before 07.15 hours.

Reason: To safeguard the amenities of the area.

11. Measures shall be implemented to avoid the possibility of vehicles waiting outside the site prior to the permitted opening hours as specified in condition 10a above.

Reason: In the interests of highway safety.

- 12a. The total amount of mineral processed and dispatched from the Site under the terms of this permission shall not exceed the following levels:

- i. 50,000 tonnes per year before the highway maintenance payment has been made under the legal agreement attached to this permission;
- ii. 110,000 tonnes per year upon payment of the highway maintenance contribution;

For the purposes of this condition a year shall comprise a calendar year commencing on 1st January and ending on 31st December of that year.

- b. Written records of the tonnage of mineral produced from the Site shall be provided to the Local Planning Authority within one month of the end of each calendar year.

Reason: In accordance with the approved scheme and to ensure that the production and dispatch of minerals is controlled at a level which is designed to protect the amenities of the local area.

- 13a. The total amount of minerals processed and dispatched from the Site as restricted under the provisions of Condition 12a above shall include no more than 15,000 tonnes per year of other aggregates for use in the processing plant or for blending.

- b. Any minerals imported to the Site shall only use the access to the Condover road as shown on the approved plans. Written records of the tonnage of minerals imported to the Site shall be provided to the Local Planning Authority within one month of the end of each calendar year.

Reason: To ensure that the import and export of materials is controlled at a level which is designed to protect the amenities of the local area.

14. There shall be no vehicular access or egress for vehicles engaged in the supply of sand

and gravel extracted from the Site or the associated processing plant area other than by way of the existing quarry entrance onto the Class 3 Condover road.

Reason: To ensure that mineral vehicles travelling to and from the Site only use the approved Accesses to the Site.

- 15a. No bulk fill or waste materials shall be imported to the Site under the terms of this permission.
- b. No soils or soil making materials shall be brought on to the Site unless the prior written approval of the Local Planning Authority has been obtained.

Reason: To ensure that satisfactory control is maintained over the operations at the Site.

SITE DRAINAGE, POLLUTION CONTROL AND HYDROGEOLOGY

16. No development shall take place until a 'water monitoring scheme' is submitted to and approved in writing by the Mineral Planning Authority (MPA). The scheme shall be implemented as approved throughout the duration of the development, including the restoration and aftercare period. The Scheme shall include, but may not be limited to:

- water features survey including private water supplies and the Cound Brook;
- any borehole, well, spring or private water supply that is identified as being at risk of derogation or otherwise negatively impacted by the mineral extraction;
- water monitoring locations;
- method and frequency for recording monitoring results (level and quality);
- method and frequency for reporting of monitoring results to MPA and EA, detailing how and when the monitoring data and the Scheme itself shall be reviewed to assess if any impacts are occurring;
- methods for investigating the causes of any such impacts and for remediating them.

Reason: To protect the water environment and prevent any deterioration of 'controlled waters' (as defined under the Water Resources Act 1991), including groundwater.

Note: The Environment Agency advises that the frequency of monitoring should be at least monthly (or longer time-series data via continuous measurement with a data logger) during the mineral extraction phase of development.

17. If monitoring results from the approved water monitoring scheme provides evidence of any adverse risk of deterioration to groundwater flows and quality, extraction of mineral on site shall cease until a programme to investigate is put in place so that the problem is understood. Informed by the investigation, implementation of effective alternative options and mitigation shall be undertaken to avoid and remedy impacts, with criteria for the review of success and failure of any remediation works, to the satisfaction of the Local Planning Authority in consultation with the Environment Agency, to remedy and ensure compliance with the approved scheme. This scheme shall include for:

- i. methods and analysis for investigating the causes of these changes and for remediating them and

- ii. Monitoring the success and failures of any remediation works carried out.

Reason: To protect the water environment and prevent any deterioration of 'controlled waters' (as defined under the Water Resources Act 1991), including groundwater.

18. There shall be no siting of structures or storage of materials and existing ground levels shall not be raised within 8 metres of top of the bank of all watercourses within or fringing the Site.

Reason: To ensure that flood water storage capacity is maintained and access to watercourses is maintained.

19. Throughout the period of working, restoration and aftercare the operator shall take steps to ensure that drainage from areas adjoining the Site is not impaired or rendered less efficient by the permitted operations.

Reason: To ensure the continuing satisfactory drainage of the Site.

20. No domestic sewage disposal shall take place unless the means of such domestic sewage disposal has first been approved in writing by the Local Planning Authority.

Reason: To minimise the risk of pollution.

21. No oil, fuel or chemicals shall be stored within the Site without the prior written approval of the Local Planning Authority. Any storage within bunded areas shall take place in properly constructed facilities consisting of an impervious base and impervious bund walls. The size of the bunded compound shall be equivalent to 110% of the capacity of the stored liquids and all filling points, vents and sight glasses shall be located within the compound.

Reason: To prevent pollution of groundwater and surface water resources.

22. Prior to cessation of mineral extraction under the terms of this permission a scheme detailing measures for the final drainage of the Site shall be submitted to and approved in writing by the Local Planning Authority. The scheme shall be implemented in accordance with the approved details.

Reason: To ensure an acceptable standard of final drainage for the Site.

NOISE, DUST AND LIGHTING

- 23a. Noise attributable to the development hereby approved shall not exceed the following levels at the nearby noise sensitive locations during normal operations:

- i. Grove Farm, Ryton Lodge –and Gonsal House - 48dB(A) LAeq 1h (free field).
ii. Grange Cottage and Radmore Cottage - 51dB(A) LAeq 1h (free field).

- b. Noise levels shall not exceed 70dB(A) LAeq 1h (free field) at the nearby noise sensitive locations of Grove Farm, Ryton Lodge, Gonsal House, Grange Cottage and Radmore Cottage during temporary operations (no more than a total of 8 weeks in any one year) such as bund formation soil stripping.

- c. A noise monitoring scheme in respect of on-going compliance with the set noise limits shall be submitted to the Local Planning Authority for written approval within 3 months of the date of this planning permission, and shall thereafter be implemented in accordance with the approved details.

Reason: To protect the amenities of occupants of nearby properties from the adverse impact of noise emissions

- 24a. Before any extraction of minerals takes place within the Site a scheme incorporating details of the type of reversing alarms to be fitted to vehicles operating within the Site shall be submitted for the approval in writing of the Local Planning Authority.

- b. All plant and machinery used within the Site shall incorporate silencers fitted in accordance with the manufacturers' specifications and those silencers shall be maintained in full working order.

Reason: To protect any noise sensitive properties from noise disturbances.

- 25a. With the exception of the temporary period of the construction of screening mounds and soil storage areas around the edges of the Site, operations shall be controlled so that there shall be no fugitive dust from the Site when viewed at the Site boundaries. In particular internal haul routes within the Site shall be graded and whenever necessary sprayed with water so as to minimise dust emissions from the Site.

- b. A scheme setting out measures for the monitoring, control and mitigation of dust in the Site shall be submitted to the Local Planning Authority within 2 months of the date of this permission. The submitted scheme shall incorporate details of availability of water for dust suppression, provision for minimising drop heights and a procedure for dealing with any dust related complaints which may be received. Following its approval the scheme required by this condition shall be implemented in accordance with the approved details.

Reason: To protect the amenities of the area from any dust generated by operations within the Site.

- 26. A water bowser of a type and size appropriate to control dust generated from the haul roads and other working areas within the Site shall be employed on the Site when weather conditions require the suppression of dust.

Reason: To ensure suitable dust suppression measures are employed on the Site particularly during dry and/or windy weather conditions.

- 27. The processing plant within the Site shall incorporate dust suppression measures including water sprays and such measures shall be maintained in effective working order throughout the duration of the mineral processing operations under the terms of this permission.

Reason: To protect the amenities of the area from dust generated by mineral processing operations at the Site.

- 28. No new fixed lighting shall be installed at the Site unless the details of such lighting have

first been submitted to and approved in writing by the Local Planning Authority. All fixed lighting employed at the Site shall be designed so as to minimize the potential for light spillage and associated visual impact.

Reason: To protect the visual amenities of the area and to reduce the potential for disturbance to local wildlife.

INTERNAL SITE ROADS AND WHEEL CLEANING MEASURES

29. The haul road serving the processing plant shall be regularly maintained and swept to provide a clean and even running surface, free from potholes.

Reason: To protect the amenities of the area to minimise the risk of silt pollution and to ensure a satisfactory access to the Site over the period of mineral extraction.

30. A wheel cleaning system shall be deployed at the site for the duration of the mineral extraction operations hereby approved. All heavy goods vehicles exporting mineral from the Site shall be directed through the wheel wash system before joining the public highway.

Reason: To ensure that wheel cleaning measures are satisfactory over the life of the Site.

CONTROLS OVER METHOD OF OPERATIONS

- 31a. A scheme providing exact details of new fencing and / or boundary treatments for the Site during each phase of the minerals development shall be submitted to and approved in writing by the Local Planning Authority prior to the commencement of mineral extraction under the terms of this permission. The proposed fencing and / or boundary treatments shall be implemented in accordance with the details of the approved scheme.

- b. All the existing perimeter hedges and fences shall be maintained, made stockproof where necessary and protected from damage by the operator until the restoration is completed. Where the Site boundary does not coincide with an existing hedge or fence, the operator shall provide and maintain appropriate fencing until the restoration of the Site is completed. Undisturbed hedgerows within or bounding the Site shall be properly maintained, throughout the period of working and restoration.

Reason: To ensure the Site is enclosed to an acceptable standard and that hedgerows are maintained.

32. The extraction of sand shall not take place other than in accordance with the approved scheme of phased working shown on drawings listed in Condition 3 above. In particular, operations shall be carried out so as to minimize the amount of operational area which is subject to disturbance at any one time.

Reason: To ensure that working of the Site takes place in accordance with the Permitted Scheme.

33. No new buildings or mineral stockpiles shall be constructed at the Site unless further details of any such structures have first been submitted to and approved in writing by the Local Planning Authority.

Reason: To ensure that any proposals to construct new temporary buildings or mineral stockpiles at the Site are subject to appropriate planning controls in the interest of visual and general amenity.

34. Unless otherwise first approved in writing by the Local Planning Authority mineral shall not be stockpiled other than in the approved stocking area adjacent to the quarry plant site as shown on the approved block phasing plan accompanying the application (Drawing No. M05108(d)_01).
- b. At no time throughout the duration of the operations hereby permitted shall the height of stockpiles exceed 10 metres.

Reason: In the interests of general and visual amenity.

SLOPE STABILITY

35. A scheme setting out measures for reviewing and ensuring slope stability shall be submitted for the approval of the Local Planning Authority within 6 months of the Commencement Date. The scheme shall incorporate the following measures:
- i. Confirmation of measures for draining areas above excavated slopes throughout the operational and aftercare phases of the Site;
 - ii. A regular visual inspection regime to assess slope stability with a mechanism to report any identified problems to the Local Planning Authority, including investigation / recording of any water seepages, evidence of surface movement or surface erosion features encountered in excavated slopes which could impact on slope stability;
 - iii. A commitment to obtain specialist geotechnical advice on slope stability if necessary where a slope stability issue has been identified;
 - iv. Confirmation of detailed gradients for excavation and final restoration batters within the Site;
 - v. Confirmation of appropriate stand-offs to site boundaries with measures for physical demarcation of these stand-offs;
 - vi. Confirmation of detailed planting seeding measures and timescales to assist in stabilizing excavated slopes as soon as practicable after mineral extraction has ceased in a given phase.

Reason: To preserve slope stability within the Site having regard to the proximity of Telegraph Lane and Bridgwalton House to the excavations.

SOIL STRIPPING, MOVEMENT AND STORAGE

36. A scheme setting out detailed provisions for construction of new soil bunds within the Site shall be submitted for the written approval of the Local Planning Authority within 2 months of the date of this permission. The submitted scheme shall include details of locations, heights, gradients, seeding timescales and the timetable for bund formation. Following approval of the scheme required by this condition the construction and management of soil bunds shall take place in accordance with the details of the approved scheme.

Reason: To ensure the satisfactory handling and storage of soil resources within the Site.

37. A detailed soil handling strategy shall be submitted for the written approval of the Local Planning Authority within 2 months of the date of this permission. The submitted scheme shall include confirmation of controls on soil handling and storage and confirmation of measures to maximise the use of soil seedbanks.

Reason: To ensure the satisfactory handling and storage of soil resources within the Site.

38. No movement of soil shall take place except when the full depth of soil to be stripped or otherwise transported is in a suitable dry soil moisture condition. Conditions shall be sufficiently dry for the topsoil to be stripped and separated from the subsoil without difficulty. Soils should be drier than field capacity in the case of coarse textured soils and drier than lower plastic limit for fine textured soils.

Reason: To ensure the satisfactory handling of soil resources within the Extension Site.

39. Before any part of the Site is excavated or traversed by heavy vehicles or machinery (except for the purpose of stripping that part or stacking topsoil on that part), or is built upon or used for the stacking of subsoil, soil making material or overburden, or for the construction of a road, all available topsoil shall be stripped from that part using dump trucks, front end loading shovels and/or conveyors.

Reason: To ensure that soils are stored in a satisfactory condition for future restoration uses.

40. All soil types within the Site as approved by the Local Planning Authority shall be stripped and stored separately and within those soil types, the top and subsoils shall be stripped and stored separately. Any overlap of soil types in a storage mound shall be kept to the minimum necessary for the effective formation of that mound and the interface shall be suitably defined on site and on a record plan provided to the Local Planning Authority so that soil types can be easily located at mound removal stage.

Reason: To ensure that soils are stored in a satisfactory condition for future restoration uses.

41. Subsoils shall be stripped from the extraction area to a minimum 75cm in depth and shall be stored for the subsequent restoration of this part of the Site.

Reason: To ensure that sufficient subsoils are reserved for future restoration uses.

42. Within the Site, deeper pockets of soil making material shall be recovered wherever practicable for use in the restoration of the Site.

Reason: To ensure that materials within the Site which will be suitable for restoration works are saved for this use.

43. Mounds of topsoil, subsoil and soil making materials shall be constructed with only the minimum of compaction necessary to ensure stability. They shall be graded and seeded with a suitable grass seeds mixture, and the sward shall be managed throughout the period of storage including the removal of any weeds at an early stage of growth.

Reason: To ensure the satisfactory preservation of soils for restoration of the Site.

44. Following topsoil and subsoil stripping in each stage or part of the defined stage of the Site, no mineral extraction shall commence until a written statement has been received from the Local Planning Authority confirming that the relevant stage or the relevant part of it has been inspected and that all soils or soil-making materials have been stripped to the satisfaction of the Local Planning Authority, for use in the restoration of the Site.

Reason: To ensure that sufficient soils are reserved for restoration purposes.

45. Whenever possible, in accordance with the progressive working and restoration of the Site, soils stripped from a stage or sub-stage of extraction shall be immediately used for the restoration of a previously worked stage or sub-stage of the Site. Soils shall be replaced in the correct order with sub-soils and soil making materials placed in advance of topsoil.

Reason: To ensure that sufficient soils are reserved for restoration purposes.

- 46a. Stripping, movement, storage and subsequent replacement of soils shall only be undertaken using a back-actor, front end loading shovels, dump trucks and/or conveyors.

Reason: To minimise possible damage to soils for use in future restoration.

- b. Stocking of soils in mounds shall be to a maximum height of 5 metres and such mounds shall be constructed with only the minimum amount of compaction necessary to ensure stability.
- c. Run-off from soil storage areas shall be contained within the Site or intercepted via peripheral drains and settled out through on-site treatment facilities prior to any discharge from the Site.

Reason: To ensure the satisfactory conservation of soils, the proper construction of soil storage areas and to prevent the pollution of the Mor Brook or other surface waters.

47. No turf, topsoil or subsoil shall be removed from the Site.

Reason: To ensure that sufficient soils are retained for the comprehensive restoration of the Site.

48. Within 3 months of the formation of any soil storage mound in accordance with the approved plans the quantities shall be measured and supplied on an appropriate plan to the Local Planning Authority.

Reason: To ensure that sufficient soils are retained for the comprehensive restoration of the Site.

ECOLOGY, LANDSCAPING AND RESTORATION

49. Operations under the terms of this permission shall take place in strict accordance with the existing European Protected Species (EPS) Mitigation Licence with respect to Great

Crested Newts. If a modification to this license is required by Natural England then this shall be applied for within one month of the date of this permission.

Reason: To ensure the protection of Great Crested Newts, a European Protected Species.

Note:

Badgers, the setts and the access to the sett are expressly protected from killing, injury, taking, disturbance of the sett, obstruction of the sett etc by the Protection of Badgers Act 1992. No works should occur within 30m of a badger sett without a Badger Disturbance Licence from Natural England in order to ensure the protection of badgers which are legally protected under the Protection of Badgers Act (1992). All known Badger setts must be subject to an inspection by an experienced ecologist immediately prior to the commencement of works on the site.

- 50a. The Site shall be restored progressively in accordance with the general principles of restoration as shown on the permitted restoration plans, namely M05108(h).007 (Rev C) - Final Restoration and M05108(h).008 (Rev C) - Overall Restoration.
- b. Within 2 months of the date of this permission a detailed scheme of restoration and landscaping shall be submitted to the Local Planning Authority for approval in writing and these works shall be carried out as approved. The submitted scheme shall include:
- i. Planting plans, including wildlife habitat and features (e.g. sand banks, hibernacula, bat and bird boxes, species-rich grasslands) showing location and number of each;
 - Tree and shrub species lists for mixed native hedgerow and woodland creation; (Woodland to be of NVC community types appropriate to the area and specific site conditions);
 - Numbers and planting patterns / mixes of trees and shrubs for hedge and woodland creation;
 - Means of ground preparation and planting pit specification where relevant;
 - Measures for tree protection and support (eg rabbit spirals and bamboo canes, or stakes and ties, or tree guards / shrub shelters);
 - Early years maintenance schedule (eg mulching and / or weeding, straightening and eventual removal of stakes and ties);
 - Replacement of losses as appropriate to achieve 90% survival rates after 5 years;
 - Timing of commencement and completion of the various phases of the scheme;
 - scale plans of the proposed planting sites;
 - ii. Written specifications (including cultivation and other operations associated with plant, grass and wildlife habitat establishment);
 - iii. Schedules of plants, noting species (including scientific names), planting sizes and proposed numbers/densities where appropriate;
 - iv. Native species used to be of local provenance (Shropshire or surrounding counties);
 - v. Details of trees and hedgerows to be retained and measures to protect these from damage during and after construction works;
 - vi. A scheme for the formation and treatment of all lakes to be established as part of the restoration of the Site including depths of the lakes, gradient of banks, provision of safe and shallow shorelines, treatment of lake margins to promote the growth of appropriate vegetation and establishment of habitats and a timetable for the implementation of these works;
 - vii. A scheme for the restoration of the plant and stocks area and silt lagoons area;

viii. Implementation timetables.

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

51. A detailed habitat management plan shall be submitted to and approved by the Local Planning Authority within 3 months of the Commencement Date and shall include:
- i. Description and evaluation of the features to be managed;
 - ii. Ecological trends and constraints on site that may influence management;
 - iii. Aims and objectives of management;
 - iv. Appropriate management options for achieving aims and objectives;
 - v. Prescriptions for management actions;
 - vi. Preparation of a works schedule (including a 5 year project register, an annual work plan and the means by which the plan will be rolled forward annually);
 - vii. Personnel responsible for implementation of the plan.
 - viii. Monitoring and remedial/contingencies measures triggered by monitoring.

The plan shall be implemented in accordance with the approved details.

Reason: To protect features of recognised nature conservation importance and maintain created habitat.

- 52a. All trees, hedgerows and shrubs within the Site boundary but outside the limits of extraction shall be retained and managed and, where appropriate, protected during excavation and restoration works to the reasonable satisfaction of the Local Planning Authority.
- b. No disturbance shall take place to any established trees or shrubs within or surrounding the Site until after the end of the bird nesting season (March - June inclusive), unless a supplementary ecological survey has been submitted to and approved in writing by the Local Planning Authority which shows that the affected vegetation is not being used by any nesting birds.

Reason: To preserve and protect existing vegetation within the Site which is not allocated for removal and to safeguard any nesting bird species.

- 53a. All buildings, plant and machinery within the Site which have been installed in connection with the operations authorised under this permission or any previous permission relating to the Site, shall be demolished, and removed from the Site within twelve months of completion of mineral extraction and the sites of such buildings, plant and machinery shall be restored in accordance with the provisions of the scheme referred to in Condition 50b above.
- b. All access and haul roads which have not previously been approved for retention by the Local Planning Authority in connection with the approved restoration and aftercare schemes shall be removed in accordance with the provisions of the scheme required by condition 50 above.

Reason: To assist in securing the full and proper restoration of the Site within an acceptable timescale.

ARCHAEOLOGY

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

Reason: The site is known to hold archaeological interest.

RESTORATION OF AGRICULTURAL AREAS

- 55a. Restoration of the Site involving soil replacement shall be carried out in dry ground and weather conditions. Soil shall be drier than field capacity in the case of coarse textured soils and drier than lower plastic limit for fine textured soils. All subsequent cultivation treatments shall only be carried out when the full volume of soil involved is in a suitably dry soil moisture condition to minimise soil damage and to maximise the effects of the subsoiling and rooting operations.
- b. Movement of soils shall be carried out using low ground pressure equipment and in particular earth scrapers shall not be used for restoring best and most versatile agricultural land. Soils from areas scheduled for restoration to best and most versatile agricultural land shall be restored using the dump truck/loose tipping method in narrow strips of approximately 10 metres width. In particular dump trucks shall not travel on the replaced soils and any machinery travelling over the soils shall be kept to the minimum necessary to spread the soil and achieve a satisfactory restoration.
- c. During the replacement of soils and other materials the restoration of the Site shall be carried out in a sequence which shall prevent the mixing of topsoil, subsoil making material and overburden.

Reason: To ensure the satisfactory handling and spreading of soils for restoration.

- 56a. Following the cessation of mineral extraction and before the replacement of subsoil, the upper layers of the sandpit base shall be subsoiled (rooted) with a heavy duty subsoiler. Such treatment shall ensure that there is:-
- i. no material injurious to plant life
 - ii. no rock, stone, boulder or other material capable of preventing or impeding normal agricultural or land drainage operations including subsoiling.
 - iii. no wire rope, cable or other foreign objects.
 - iv. a reasonably level, but uncompacted, surface to receive subsoil.
- b. Stones with a diameter in excess of 10 cm and other deleterious materials shall be removed from the Site or buried on the Site in a location and depth notified to the Local Planning Authority.

Reason: To ensure the satisfactory restoration of the Site.

- 57a. A minimum of 90 cm of subsoil shall be re-spread evenly over those areas approved to receive such subsoil. The subsoil shall be treated in accordance with the general requirements of Condition 54 above. Except where soils are being loose tipped no layer of replaced soil shall exceed 300mm thickness before it is subsoiled (rooted) and the subsoiling operation must penetrate at least 150mm into the underlying layer to relieve compaction at the interface. Subsoil upon which other soils have been stored shall also be subsoiled (rooted) in the same manner.
- b. Stones with a diameter in excess of 10cm or other deleterious materials shall be removed from Site or buried on the Site in a location and depth notified to the Local Planning Authority.

Reason: To ensure the satisfactory restoration of the Site.

- 58a. After satisfactory replacement and treatment of the subsoil, a 30 cm layer of topsoil shall be re-spread evenly over those areas approved to receive such topsoil. The topsoil shall be subsoiled (rooted) and cultivated and topsoil upon which other topsoil has been stored shall be subsoiled (rooted) and cultivated in the same manner.
- b. All operations involving soil replacement and cultivation treatments shall only be carried out when the full volume of soils involved is in a suitable dry soil moisture condition.

Reason: To ensure the satisfactory restoration of the Site.

59. Stones with a diameter in excess of 10cm and any other material in the restored soil profile which is deleterious to the establishment of the proposed afteruses shall be removed from the Site or buried at considerable depth in a manner to be the subject of the prior approval of the Local Planning Authority.

Reason: To ensure the satisfactory restoration of the Site.

60. Prior to cultivation of the replaced soils in each stage of restoration a formal inspection shall take place with the Local Planning Authority to ensure that the restoration levels are in general accordance with the levels set out in the approved Restoration Plan and that the contours are suitable for future reinstated agricultural operations.

Reason: To ensure this satisfactory restoration of the Site.

- 61a. On the completion of restoration all fixed equipment, machinery and buildings shall and areas of the site haul roads which are not required in association with the approved afteruse shall be removed from the Site.
- b. Field water supplies shall be provided in those parts of the Site which are returned to agricultural uses.

Reason: To ensure the satisfactory restoration of the Site.

62. Where each progressive stage of restoration within the Site incorporates the planting of

hedgerows and trees, such planting shall be implemented in accordance with a detailed specification supplied to and approved in writing by the Local Planning Authority and the work shall be carried out within the first planting season following restoration.

Reason: To ensure the satisfactory restoration of the Extension Site.

AFTERCARE

- 63a. All agricultural areas shall undergo aftercare management for a 5 year period, commencing on the date at which the restoration is completed to the satisfaction of the Local Planning Authority.
- b. All areas of habitat based restoration incorporating lakes, grassland and woodland shall undergo aftercare management for 10 years in accordance with the provisions of the legal obligation accompanying this permission beginning from the date when restoration has been completed in each phase or restoration block under the terms of this permission.

Reason: To bring the land to the required standard for agricultural use and wildlife habitats.

64. Detailed aftercare schemes for agricultural areas shall be submitted for each restored section of the Site as soon as restoration has been completed to the satisfaction of the Local Planning Authority. The submitted schemes shall provide for the taking of such steps as may be necessary to bring the land to the required standard for agriculture, including as appropriate:
- i. minor regrading works as necessary to alleviate the effects of settlement and surface ponding;
 - ii. measures to reduce the effects of compaction;
 - iii. fertiliser and lime application;
 - iv. cultivation works;
 - v. reseeding where necessary of any parts of the area sown which do not provide a satisfactory plant growth in the first year;
 - vi. grass cutting or grazing;
 - vii. replacement of hedge and tree failures;
 - viii. weed and pest control;
 - ix. drainage including the construction/maintenance of ditches and soakaways;
 - x. field water supplies
 - xi. under drainage
 - xii. vegetation management proposals including as necessary firming, re-staking, fertiliser application, thinning and replacement of failures within the aftercare period;
 - xiii. habitat management proposals within the aftercare period;
 - xv. track maintenance within the Site;
 - xvi. repair to erosion damage;

Reason: To ensure the establishment of a productive afteruse for the non-agricultural areas of the Site in accordance with the details of the approved scheme.

REVIEW OF SITE OPERATIONS

65. The Site shall be subject to a formal annual review of operations throughout the period of working, restoration and aftercare hereby approved. The annual review shall cover issues including:
- i. noise and dust mitigation;
 - ii. extraction and processing;
 - iii. progressive restoration;
 - iv. aftercare, including to agriculture and nature conservation;
 - v. a review of any complaints received and action taken.

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

ON SITE RETENTION OF APPROVED DOCUMENTS AND PLANS

66. A copy of all documents and plans comprising the permitted scheme as referred to in Condition 3 above shall be held at the Site for inspection and reference for the duration of the permitted development.

Reason: To ensure the availability of the details of the permitted development to on-site personnel.



<u>Committee and date</u>
Southern Planning Committee
5 October 2021

SCHEDULE OF APPEALS AS AT COMMITTEE 5 October 2021

Responsible Officer: Tracy Darke, Assistant Director of Economy & Place

LPA reference	19/02197/FUL
Appeal against	Refusal
Committee or Del. Decision	Committee
Appellant	Mr Richard Corfield
Proposal	Application under Section 73A of the Town and Country Planning Act 1990 for the change of use of pastureland/woodland to camping for up to 50 tent pitches 8 glamping units and retrospective permission for shower and toilet block
Location	Oaklands Leisure Campsite And Fishery Harton Shropshire SY6 7DL
Date of appeal	12.05.2021
Appeal method	Written Representations
Date site visit	
Date of appeal decision	08.09.2021
Costs awarded	
Appeal decision	Dismissed

LPA reference	20/02056/FUL
Appeal against	Refusal
Committee or Del. Decision	Committee
Appellant	South Stafford Housing Association
Proposal	Demolition of existing buildings; erection of mixed residential scheme of 30 dwellings; highway works; landscaping scheme to include felling of trees; all associated works
Location	Former Council Offices Westgate Bridgnorth
Date of appeal	13.09.2021
Appeal method	Hearing
Date site visit	
Date of appeal decision	
Costs awarded	
Appeal decision	

LPA reference	20/03325/FUL
Appeal against	Refusal
Committee or Del. Decision	Delegated
Appellant	Mrs M Wright
Proposal	Installation of automated sliding vehicular gates, pedestrian gate and fence (1.83m high)
Location	The Birches Condover Shrewsbury Shropshire SY5 7AA
Date of appeal	21.07.2021
Appeal method	Written Representations
Date site visit	
Date of appeal decision	14.09.2021
Costs awarded	
Appeal decision	Allowed

LPA reference	20/03647/OUT
Appeal against	Refusal
Committee or Del. Decision	Committee
Appellant	James Collins
Proposal	Outline application for residential development of 3 no. detached dwellings to include access, layout and scale (Amended description 25.01.2021.)
Location	Acton Arms Hotel Morville Bridgnorth
Date of appeal	23.06.2021
Appeal method	Written Representations
Date site visit	24.08.2021
Date of appeal decision	15.09.2021
Costs awarded	
Appeal decision	Dismissed

LPA reference	21/00998/FUL
Appeal against	Refusal
Committee or Del. Decision	Delegated
Appellant	Mr A Bostan
Proposal	Reduce height of roof to outbuilding, installation of dormer window, glazed gable and balcony and erection of single storey extension
Location	Dowles Cottage Dowles Road Bewdley
Date of appeal	28/07/2021
Appeal method	Written representations
Date site visit	23/08/2021
Date of appeal decision	22/09/2021
Costs awarded	
Appeal decision	Dismissed

LPA reference	20/02945/PMBPA
Appeal against	Refusal
Committee or Del. Decision	Delegated
Appellant	Mr & Mrs R & C Kempsey
Proposal	Application for prior approval under Part 3, Class Q of the Town & Country Planning (General Permitted Development) (England) Order 2015 for the change of use from agricultural to 5No. dwellings
Location	Sutton Farm Claverley
Date of appeal	14/06/2021
Appeal method	Written representations
Date site visit	17/08/2021
Date of appeal decision	22/09/2021
Costs awarded	Partial costs awarded
Appeal decision	Allowed

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Appeal Decision

Site Visit made on 13 July 2021

by Samuel Watson BA(Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 8th September 2021

Appeal Ref: APP/L3245/W/21/3270801

**Oaklands, Westhope Cottage Junction to Lower House Farm Junction,
Ticklerton SY6 7DL**

- 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 Richard Corfield against the decision of Shropshire Council.
 - The application Ref 19/02197/FUL, dated 14 May 2019, was refused by notice dated 22 September 2020.
 - The development proposed is Change of Use of pastureland and woodland to allow camping for up to 50 tent pitches 8 glamping units and retrospective permission for shower and toilet block.
-

Decision

1. The appeal is dismissed

Preliminary Matters

2. During my observations on site, I noted that tent pitches within the wooded area, log cabins and the shower/toilet block were already present. This appeal therefore seeks retrospective permission for the development, and I have determined the appeal accordingly.
3. A revised National Planning Policy Framework (the Framework) was published on 20 July 2021. I have determined this appeal in the context of the revised Framework, on which the parties have been given the opportunity to comment.
4. In the interests of clarity, especially given the site's relationship with the Shropshire Hills Area of Outstanding Natural Beauty (AONB), further information was requested from the Appellant. The Council were provided the opportunity to comment on this additional information.

Main Issues

5. The main issue in this case is the effect of the development on:
 - the character and appearance of the surrounding area, including the AONB;
 - the surrounding environmental network; and,
 - whether the development provides a suitable quality of visitor accommodation.

Reasons

Character and Appearance

6. The appeal site covers a large area which includes fishing lakes, a field and woodland. It is within open countryside near a disused railway and is accessed from a narrow road. The surrounding area is primarily characterised by its open and rural nature with small sporadic groups of buildings, and is within the AONB. From the evidence before me, and my observations on site, I find that the special qualities of the AONB stem from the open and sparsely developed rural landscape set across hills and valleys. Notwithstanding the new development, which is covered below, the appeal site also largely continues this open and rural character. During my observations on site, I noted a large number of wooded areas both on and surrounding the appeal site.
7. The development would result in tents across the open fields surrounding the fishing lakes where they would be prominent in views and intrusive features within the otherwise open and rural landscape. While tents are temporary, it is likely that the site would be busy throughout the warmer months with only very limited time throughout the year where all the pitches are empty. Although the log cabins are simple structures and somewhat screened by vegetation, their presence close to the tent pitches would result in a sense of development sprawling across the site which would harm the largely undeveloped nature of the site and its surroundings.
8. However, the tent pitches within the wooded area are set spaciouly, surrounded by trees and undergrowth. As such they are somewhat natural in appearance and in keeping with their surroundings. Moreover, given the dense woodland surrounding them, tents would be screened from the surrounding area and would not be harmful to the natural appearance of the wood or rural character of the area.
9. Nevertheless, the development, by way of not respecting the rural and open nature of the area, cumulatively harms the special qualities of the AONB to the detriment of its natural and scenic beauty. Therefore, the development conflicts with Policies CS5, CS6, CS16 and CS17 of the Shropshire Local Development Framework: Adopted Core Strategy (ACS) and Policies MD2, MD11 and MD12 of the Shropshire Council Site Allocations and Management of Development Plan (SAMDev). Collectively these policies require, amongst other matters, that development is of a high quality design which maintains and respects local distinctiveness and the countryside character, particularly within the AONB. The development would also conflict with the overarching character and appearance aims of the Framework.

Environmental Network

10. The appeal site is partially covered by two local wildlife sites (LWS), namely the Disused Railway Line, Acton Scot, and the Pool North West of New Hall. These sites form part of the Shropshire Environment Network, while along the south of the site is an Environmental Network Corridor. I note from the submitted evidence that there are existing concerns as to the environmental quality of the appeal site and wildlife sites. The development includes both the enlargement of the area used for camping, and the intensification of the use.

11. As a result, the development, by way of the additional structures, pitches and likely associated paraphernalia reduces the space and habitats available for wildlife. The development is likely to have also increased the number of visitors on site and therefore also the typical activities, comings and goings, and noise associated with them. As such, the scheme has the potential to disturb wildlife and reduce the availability of habitats. I therefore consider that the development has resulted in an adverse impact on the biodiversity of the area.
12. However, the Appellant's case includes an ecological report and Bio-diversity Management Plan covering remedial works and a monitoring scheme. Through various methods this recommends increasing and protecting native species of land and pond planting, and monitoring water quality in order to enhance the current quality of the area. I find that this management plan would be sufficient to mitigate the limited losses highlighted above and also provide some enhancements over the existing deteriorated state of the LWSs. Moreover, I note that the Council's Environmental Team and the Shropshire Wildlife Trust find similarly.
13. I understand that there are concerns about loud noises from the site affecting wildlife and other animals, including loud music and fireworks. However, I understand this was an existing issue, and it is not clear whether this was a singular event or a regular occurrence. Nevertheless, I therefore find that it is unlikely the development before me has resulted in a significant increase in noise disturbance.
14. I therefore find that the development does not adversely affect the biodiversity of the environmental network of the appeal site and LWS, and would provide some enhancements. As such it complies with policies CS6 and CS17 of the ACS and Policies MD2 and MD12 of SAMDev which collectively, and amongst other things, require development to protect and conserve the diversity and high quality natural environment including its habitats and species. The development therefore also complies with the overarching natural environment aims of the Framework.

Visitor Accommodation

15. I have not been provided with, or made aware of, any standards for visitor facilities and accommodation. However, given the rural location of the appeal site and that the development is for camping and 'glamping' I find that the accommodation future users would expect would be substantially different to that provided by such as a hotel or bed and breakfast. From the evidence before me I understand that the appeal site is primarily focused on the fishing lakes and outdoor recreation, I find this is reflected in the simple and quiet character of the site.
16. The pitches and cabins are set spaciouly providing a sense of separation for each pitch, and privacy for visitors. Moreover, given the nature of the site, amenity space and activities are provided within the appeal site. Furthermore, the site is within the AONB and I note that there are at least two public rights of way near the appeal site. Visitors are therefore likely to have a good level of access to both of these alongside the facilities on site.
17. Given the foregoing, I find that the appeal development provides a good quality of both facilities and accommodation, and would meet the expectations of likely future visitors. As such the development complies with ACS Policy CS16 and

Policy MD11 of the SAMDev. These policies require that a high quality of visitor accommodation is provided which promotes access, understanding and engagement with the AONB and rights of ways.

Conclusion

18. The development would provide some enhancements to the biodiversity of the area and the tourist accommodation likely provides some economic uplift. Given the scale of the development I find these benefits would be modest and collectively I attribute them moderate weight. Conversely, the harm to the character and appearance of the area and the AONB attracts significant weight. Therefore, this harm outweighs the benefits above associated with the development.
19. Therefore, the proposal conflicts with the development plan and there are no other considerations, including the Framework, that outweigh this conflict. As such, for the reasons given above, I conclude that the appeal should be dismissed.

Samuel Watson

INSPECTOR



Appeal Decision

Site Visit made on 24 August 2021

by Tamsin Law BSc MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 14 September 2021

Appeal Ref: APP/L3245/D/21/3274164

The Birches, Condover, Shrewsbury SY5 7AA

- 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 & Mrs Ken and Margaret Sykes and Wright against the decision of Shropshire Council.
 - The application Ref 20/03325/FUL, dated 17 August 2020, was refused by notice dated 22 March 2021.
 - The development proposed is the installation of automated sliding vehicular gates, pedestrian gate and fence (1.83m high).
-

Decision

1. The appeal is allowed and planning permission is granted for the installation of automated sliding vehicular gates, pedestrian gate and fence (1.83m high) at The Birches, Condover, Shrewsbury SY5 7AA in accordance with the terms of the application, Ref 20/03325/FUL, dated 17 August 2020, subject to the following conditions:
 - 1) The development hereby permitted shall begin not later than 3 years from the date of this decision.
 - 2) The development hereby permitted shall be carried out in accordance with the following approved plans: 2224/17; 224/18; 2224/19; and The cantilever sliding gate.

Preliminary Matters

2. I have taken the description of development from the Council's decision notice as this more concisely describes the proposal.
3. On 20 July 2021, the Government published a revised version of the National Planning Policy Framework (the Framework). I have not asked for further comment from the parties as the revised Framework does not materially alter the national policy approach in respect of the main issues raised in this appeal and therefore no parties have been prejudiced.

Main Issue

4. The main issue is the effect of the proposed development on highway safety.

Reasons

5. The appeal site is located in an area characterised by residential dwellings set back from the highway with access and parking to the front. Opposite the appeal site is a junction into a residential development (Ashton Road). The

appeal site currently benefits from open access on to the highway and off-street parking and is located on a relatively straight section of highway within a 30 mph limited area.

6. The Council are concerned that the installation of the gate would impact traffic moving along the highway as it does not allow for a vehicle to pull off the road before opening the gate. Currently waiting for vehicles to manoeuvre is characteristic of the area immediately in front of the appeal site. During my site visit I witnessed vehicles waiting in the highway to turn into Ashton Road and into the nearby residential dwellings.
7. The proposed development would include automated gates that can be opened from a distance of 100 metres, allowing the gates to be opened when approaching the site and vehicles to entirely pull off the highway, therefore reducing any impacts on the flow of traffic. I note the Council's comments regarding visitors; however, this is likely to be limited and most vehicle movements will be undertaken by those occupying the site. In any event, the waiting time for a gate to be opened and a vehicle to be moved off the road would be minimal, and the movements associated with a single dwelling are low.
8. Concerns have also been raised regarding the proximity of the proposal to the highway and a lack of space for other vehicles i.e. deliveries. Parking on the adjoining highway and street opposite the site (Ashton Road) is unrestricted and during my site visit I witnessed vehicles parking on both roads. Whilst this caused a degree of delay for vehicles waiting to pass, this was minimal and the vehicle numbers travelling along the highway and their speed during my visit, which I appreciate was during the day, were not such that this would likely cause highway safety problems. I am aware that traffic volumes may increase when people return from school or work. I note that a school is located to the south, however parking is provided and the main access to the school is off another highway. Whilst the volume of traffic may increase during the morning and evening due to this, the movements associated with accessing a single dwelling are unlikely to cause harm to highway safety.
9. I note that in the original consent for the dwelling that conditions were imposed by the Council in relation to gates and set back of means of enclosure and the reasoning for this was in the interest of highway safety. These primarily relate to visibility and accessing the site without causing a delay. As mentioned above the gates will be automated allowing residents to pull off the highway without delay. With regards to visibility when exiting the site, the access is on to a relatively straight stretch of highway with good visibility in both directions. When open the gate area provides an opening of approximately 4.8 metres. This combined with the cross over provides opportunity for any vehicles exiting the site to see any approaching vehicles and also for approaching vehicles to see any vehicles exiting the access.
10. For the reasons set out above I consider that the proposed development would not be detrimental to the free flow and safe movement of traffic. Accordingly, I find no conflict with Policy CS6 of the Core Strategy¹ (2011) which seeks, amongst other things, to ensure that development is safe and accessible to all. The proposal also complies with paragraph 111 of the National Planning Policy

¹ Shropshire Local Development Framework Adopted Core Strategy (March 2011)

Framework which to ensure that development does not have an unacceptable impact on highway safety.

Conditions

11. In the interest of certainty and safeguarding character and appearance of the area, the conditions requested by the Council regarding time limit and adherence with plans are considered to be necessary.

Conclusion

12. For the reasons given above I conclude that the appeal should be allowed.

Tamsin Law

INSPECTOR

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Appeal Decision

Site Visit made on 24 August 2021

by Samuel Watson BA(Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 15 September 2021

Appeal Ref: APP/L3245/W/21/3273622

Rear of Acton Arms, Morville, Bridgenorth, WV16 4RJ

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant outline planning permission.
 - The appeal is made by Mr James Collins against the decision of Shropshire Council.
 - The application Ref 20/03647/OUT, dated 22 September 2020, was refused by notice dated 13 April 2021.
 - The development proposed is outline permission for the development of 3 homes in the paddock to the rear of the Acton Arms, Morville.
-

Decision

1. The appeal is dismissed.

Preliminary Matters

2. The proposal before me has been made in outline with appearance and landscaping reserved for a subsequent application.
3. A revised National Planning Policy Framework (the Framework) was published on 20 July 2021. I have determined this appeal in the context of the revised Framework, on which the parties have been given the opportunity to comment.

Main Issue

4. The main issue is whether the location of development is suitable, with regard to sustainable development and access to services and facilities.

Reasons

5. The appeal site is within a small parcel of land to the rear of the Acton Arms, a currently vacant public house within the village of Morville. The village is considered to be suitable for a limited amount of residential development within the Council's development plan, with Policy S3.2 (iii) of the Shropshire Council Sites Allocations and Management of Development Plan (SAMDev, adopted 2015) considering around 15 new dwellings being appropriate. It is clear that, so far over the plan period, 28 properties have been built or currently have extant permission within the village. No evidence has been provided to suggest that the extant permissions would not be built out, therefore the proposal would result in this number being further increased to 31 properties.
6. The appellant has drawn my attention to a previous permission on site which was permitted for six dwellings (Reference: 15/00304/FUL). This permission has now expired, but the appellant considers there to have been no material

- changes to the situation on the ground or policy and therefore that the principle of development is still established.
7. While I note that a new Framework has been published, I find that there have not been any material changes within local or national policy relevant to this appeal. However, it is clear from the evidence before me that, at the time of the previous permission, the number of new permitted dwellings (whether with outline or full permission) would have also exceeded 15 dwellings. However, it appears that this over provision would have been less than that before me. Therefore, while both developments would bring the number of new dwellings constructed beyond the 15 set out in the development plan, I find that the increase in built out, and extant, permissions since the now expired permission to be a material change in circumstances. I therefore find that it is necessary to reconsider the principle of development.
 8. Whilst I note the Council found the proposal would provide a social benefit by increasing the number of residents in the village, I am not convinced the proposal would result in any meaningful economic uplift, and the evidence before me is limited in this regard. Specifically, whilst the Acton Arms may be renovated as a result of this scheme, and the Appellant has put forward a unilateral undertaking to ensure this, I am not convinced that the three dwellings would be sufficient to ensure the long-term viability of the public house. Moreover, whilst I have been directed to a school and village hall within Morville, I find it unlikely that future occupiers could provide long term economic benefits for the village through the use of these facilities alone. As such there would be only a limited economic uplift as a result of the modest construction works.
 9. Given the location of the development and the limited services and facilities within Morville, it is likely that future occupiers would need to travel further afield to meet their daily needs. Whilst a bus route to larger settlements has been brought to my attention, it is not clear where this stops or whether its schedule would be suitable for commuting, to employment or education, or for regular shopping trips. As such I find that future occupiers would be reliant on a private motor vehicle to meet these needs.
 10. Whilst Morville is considered to be somewhat sustainable, this is only for a limited number of dwellings. Although the limit of 15 new dwellings is not a hard cap, the total of 31 new dwellings resulting from this development would be significantly higher than intended by the scope of this soft limit. While the soft limit may have already been breached this does not justify in itself exacerbating this breach further, and no other justification has been provided.
 11. As the proposal would result in additional dwellings over and above the limit set out within Policy S3.2(iii) of the SAMDev, it would not comply with the aims of the Council's locational strategy in directing development towards more sustainable locations. It would therefore conflict with Policy CS4 of the Shropshire Local Development Framework: Adopted Core Strategy (adopted 2011) and Policies MD1, MD3 and S3.2(iii) of the SAMDev. Amongst other matters these policies collectively require new residential development to be sustainable and commensurate with the size of the settlement, mindful of the housing number guidelines also set out in the policy. The development would also conflict with the overarching aims for sustainability set out within the Framework.

Conclusion

12. The government's objective is to significantly boost the supply of housing and the proposal would provide three new dwellings. The scheme would also lead to a small and time-limited economic benefit during the construction phase, as well as some social benefits resulting from future occupiers. Given the small scale of the proposal, and the supply of extant and completed permissions within Morville over the plan period, these benefits attract moderate weight.
13. Conversely, the location of the proposal in an area which has already surpassed the level of residential development considered acceptable would undermine the Council's plan-led approach to the delivery of housing. This matter attracts significant weight and outweighs the benefits associated with the proposed development.
14. The proposal would therefore conflict with the development plan and there are no other considerations, including the Framework, that outweigh this conflict. Therefore, for the reasons outlined above, I conclude that the appeal should be dismissed.

Samuel Watson

INSPECTOR

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Appeal Decision

Site Visit made on 23 August 2021

by Mark Ollerenshaw BSc (Hons) MTPI MRTPI

an Inspector appointed by the Secretary of State

Decision date: 22 September 2021

Appeal Ref: APP/L3245/D/21/3276238

Dowles Cottage, Dowles Road, Bewdley DY12 3AB

- 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 M Bostan against the decision of Shropshire Council.
 - The application Ref 21/00998/FUL, dated 25 February 2021, was refused by notice dated 7 May 2021.
 - The development proposed is described as 'reduce height of roof to outbuilding. Proposed single storey extension, glazed gable and balcony'.
-

Decision

1. The appeal is dismissed.

Preliminary Matters

2. On 20 July 2021, a revised version of the National Planning Policy Framework (the Framework) was published. The main parties were given the opportunity to comment on the relevance of this to the appeal. I have had regard to any comments received and the revised Framework in my decision.

Main Issues

3. The main issues are the effect of the development proposed on the character and appearance of the host property and the surrounding area, and the effect on the living conditions of the neighbouring occupiers of 1 Fallowfield, with particular regard to privacy.

Reasons

Character and Appearance

4. The appeal site consists of a detached two storey dwelling and curtilage. The existing dwelling was erected following approval of a planning application for a replacement dwelling¹ and replaced a previous dwelling on the site. The dwelling is attached by a single storey link extension to a large stone outbuilding to the rear which has been converted into ancillary accommodation. There is a small cul-de-sac to the south of the site comprising a small number of chalet bungalows which are situated at a lower level than the appeal site. These share an access road onto Dowles Road with the appeal property. Other than the chalets, the site is set within a landscape of open fields, established hedgerows and woodland, which overall make a positive contribution to the rural setting.

¹ Council ref. BR/APP/FUL/06/0308

5. The Council states that Dowles Cottage is mentioned as part of the Historic Farmsteads Characterisation Project on the Historic Environment Record and they consider the building to be a non-designated heritage asset. However, there is no evidence before me to suggest that the building is on an adopted Local List. Furthermore, I am mindful that Dowles Cottage is a modern new build replacement, whilst the rear outbuilding has been significantly altered and adapted to its current residential use. Accordingly, I have considered the proposal on the basis that it is not a non-designated heritage asset. Notwithstanding this, the outbuilding is clearly of some age and traditional appearance and has retained its ancillary relationship to the main dwelling. Despite having been previously altered, the outbuilding has a pleasing character which contributes positively to its rural surroundings.
6. The proposed development relates to alterations to the ancillary outbuilding to the rear and a single storey extension to the north side of the existing link extension. I accept that the dwelling has already been extended with the conversion and alteration of the outbuilding and the link extension. However, given the reduction in the height of the outbuilding and the modest scale of the proposed single storey extension, the proposed development would not appear out of scale with the main dwelling, which would still be the dominant element with the outbuilding and link extension continuing to appear as subsidiary elements. The single storey extension would not be prominently sited on the building and would have limited impact on the character of the building and the surrounding area.
7. The proposed modifications to the roof of the outbuilding, including a reduction in its height and change to the roof profile, would be harmful to the distinctive character of the building. The glazed gable would resemble a large dormer which would be a dominant feature on the rear roof slope of the outbuilding. Together with the proposed balcony structure, the alterations to the outbuilding would not reflect its simple form and appearance and would appear incongruous. Such harm would be exacerbated by the large amount of glazing to the rear elevation of the gable which would not reflect the existing fenestration of the building, which is characterised by smaller openings, and would therefore further diminish its character.
8. Due to the position of the outbuilding at a lower level than the main dwelling, the alterations to the outbuilding would not be prominent when viewed from public vantage points. However, the development would nevertheless be partially visible from Dowles Road and from the rear of the appeal property itself and the adjoining cul-de-sac, where it would appear as an incongruous and unsympathetic form of development.
9. I conclude that the proposal would be harmful to the character and appearance of the host property and the surrounding area. Thus, there would be a conflict with Policies CS5, CS6 and CS17 of the Shropshire Local Development Framework: Adopted Core Strategy (2011) (CS), and Policy MD2 of the Shropshire Council Site Allocations and Management of Development Plan (2015) (SAMDev), which seek to ensure that development maintains and enhances countryside character; respects and enhances local distinctiveness; and, protects the local character of Shropshire's natural environment. It would also fail to comply with paragraphs 130 and 134 of the Framework, where these seek to ensure that development would be well designed and sympathetic to local character.
10. Given my findings above in respect of the building not being a non-designated heritage asset, there would be no conflict with Policy MD13 of the SAMDev which

relates, amongst other things, to the protection and enhancement of heritage assets, or with paragraph 203 of the Framework.

Living conditions

11. The appeal site is bounded to the south by a neighbouring property, 1 Fallowfield, a bungalow which to its northern side includes habitable room windows together with a garden area. Due to the level difference between the site and this neighbouring property, and the low boundary treatment on the southern site boundary, views are possible from the site towards the neighbouring property.
12. The proposed balcony would project from the rear of the outbuilding. Due to its elevated position, the balcony would potentially give views towards the neighbour's windows and garden. However, there would be a reasonably large separation distance between the proposed balcony and the neighbouring property. Furthermore, the appellant confirms that they would be willing to install a privacy screen on the southern side of the balcony, as indicatively shown on the plan extract, which would restrict views from the balcony to the neighbour's property. Details of such a screen could be agreed by means of a condition. Any remaining overlooking of the neighbour's property from the balcony would then be at an oblique angle which I consider would not be unacceptably harmful to the neighbour's living conditions.
13. Therefore, had I been minded to allow the appeal, a condition could have been attached to require the provision of a screen to the balcony, which I am satisfied would reduce the impact on the neighbour's privacy to an acceptable level. Subject to such a condition, the appeal scheme would not be harmful to the living conditions of the neighbouring occupiers of 1 Fallowfield in terms of the effect on privacy. Consequently, it would not conflict with Policy CS6 of the CS or paragraph 130 of the Framework which, amongst other things, seek to ensure that development safeguards residential amenity.

Other Matters

14. The appellant states that, save for the proposed balcony, the alterations and extension to the roof of the outbuilding and the single storey extension would appear to constitute permitted development which should be considered as a material fallback position. However, there is no Certificate of Lawfulness before me to demonstrate that the works would be lawful and there are no details of the construction of the fallback position. I therefore give the fallback position limited weight.

Conclusion

15. Although I have found that the development proposed is acceptable in relation to its effect on the living conditions of the occupiers of 1 Fallowfield, I have found that the proposal would cause unacceptable harm to the character and appearance of the host property and the surrounding area. As such, the proposal is contrary to the development plan as well as the Framework, and there are no other material considerations of sufficient weight to indicate a decision be taken other than in accordance with the development plan. I therefore conclude that the appeal should be dismissed.

Mark Ollerenshaw

INSPECTOR

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Appeal Decision

Site visit made on 17 August 2021

by **Samuel Watson BA(Hons) MSc MRTPI**

An Inspector appointed by the Secretary of State

Decision date: 22 September 2021

Appeal Ref: APP/L3245/W/21/3269754

Sutton Farm, Claverley, Wolverhampton WV5 7DD

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant approval required under Schedule 2, Part 3, Class Q of the Town and Country Planning (General Permitted Development) (England) Order 2015.
 - The appeal is made by Mr & Mrs R & C Kempsey against the decision of Shropshire Council.
 - The application Ref 20/02945/PMBPA, dated 21 July 2020, was refused by notice dated 28 August 2020.
 - The development proposed is a Class Q application for the change of use of an agricultural building to five dwellinghouses.
-

Decision

1. The appeal is allowed and prior approval is granted under the provisions of Article 3(1) and Schedule 2, Part 3, Class Q of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) (the GPDO) for the change of use of an agricultural building to five dwellinghouses, at Sutton Farm, Claverley, Wolverhampton WV5 7DD, in accordance with the terms of the application 20/02945/PMBPA, dated 21 July 2020. The application is subject to the condition that the development must be completed within a period of 3 years from the date of this decision in accordance with Paragraph Q.2(3) of the GPDO.

Application for costs

2. An application for costs was made by Mr & Mrs R & C Kempsey against Shropshire Council. This application is the subject of a separate decision.

Background and Main Issues

3. Article 3(5) of the GPDO states, amongst other things, that the permission granted by Schedule 2 does not apply if, in the case of permission granted in connection with an existing building, the building operations involved in the construction of that building are unlawful. Whilst not in their reasons for refusal, the Council have expressed substantive concerns that the appeal building is not lawful as it has not been built in accordance with the approved plans.
4. Therefore, the main issues in this case are; whether the building is lawful, and if so;
 - whether the proposed development would fall within the definition of development permitted by Schedule 2, Part 3, Class Q of the GPDO with specific regard to the extent of the proposed building operations; and,

- whether the location of the building is impractical or undesirable for the proposed conversion.

Reasons

Whether the building is lawful

5. Although the appellant has not disputed that the poultry barn was not built according to the plans approved under permission BR/89/1039, there remains disagreement between the main parties as to whether the building is lawful and thus benefits from the prescribed rights under permitted development. From the evidence submitted I understand that the existing building is larger than that approved.
6. The aerial photography before me appears to show that the building has remained the same size and shape between 1999 and 2021. As such, the building would have either not been built in accordance with the approved plans, or altered to no longer be in accordance sometime prior to the aerial photography of 1999. Given the works requiring planning permission were more than likely substantially completed as of 1999, considerably more than a period of four years has elapsed, and as such, no enforcement action may be taken.
7. Section 191(2)(a) of the Town and Country Planning Act 1990 (The Act) states that operations are lawful if no enforcement action may be taken because the time for enforcement action has expired. This is notwithstanding the presence, or lack, of any lawful development certificate.
8. Therefore, and for the purposes of this appeal, I find that in all likelihood the appeal building is lawful and therefore benefits from the provisions of Class Q. In reaching this decision I have been mindful of the appeals brought to my attention by the Council.

Building Operations

9. The appeal building is a simple structure formed of a timber framework with cladding forming the roof and walls. At the time of my visit the walls and roof seemed to be in a good condition and covered the entire building. The internal floor appeared to be made of concrete and was also in a good condition.
10. From the evidence before me, and my observations on site, I find that the building, and importantly, the framework are structurally sound. Moreover, the structural reports accompanying the proposal consider the building to not need further strengthening in order to accommodate the proposed works. Therefore, mindful of Paragraph 105 of the Planning Practice Guidance (PPG) and the above, I find that the building would be suitable for conversion to a residential use.
11. In this case I understand that the roofing materials would be replaced, and the walls would predominantly be replaced, although some new walls would also be erected. As part of such a conversion Class Q.1(i)(i)(aa) allows for the replacement or creation of external walls and roofs, where they are reasonably necessary for the building to function as a dwellinghouse. Therefore, whilst these works would be significant, as the building is suitable for conversion, I find that they would be reasonably necessary. In particular, Class Q allows for

the erection of new walls and so, while some of the proposed walls do not follow the existing, this is also within the scope of the Class.

12. Based on the evidence provided, I am satisfied that the structural integrity of the building is sound and would form an integral part of the new dwellings. The building operations, while significant, would be reasonably necessary in this instance and would not exceed the limitations set out in paragraph Q.1(i) of the GPDO.

Practicality and Desirability of Location

13. The appeal site is within open countryside and is surrounded by agricultural fields. Nearby there are also three intensive poultry barns, whilst I understand they are not currently used for this purpose they could be returned to this use. The track shared by, and immediately adjacent to, the appeal site is a public footpath and also provides access to the closest of these barns.
14. Given that the poultry barns could easily be returned to use, I have considered them as such for the purposes of this appeal. The barns are likely to generate noise and smells from the livestock and their waste, and vehicles servicing the barns are likely to further contribute to this. As Class Q allows for the conversion of agricultural buildings, which would inherently be within or near agricultural units, I find that some disturbance, including through noises and smells, would be expected.
15. Given the proximity of the closest barn there would likely be some livestock noises and smells which would reach the appeal site. However, I find that the distance from all three barns and the appeal site would be sufficient to limit any disturbance to an acceptable level considering its rural location.
16. Furthermore, as the track adjacent to the site serves only a small number of fields and one poultry barn, I find the number of vehicular movements likely to pass the appeal site to be low. Moreover, within a rural location agricultural vehicles such as tractors are to be expected to travel along roads and within fields. Mindful of this, and the limited number of movements likely, I find the vehicles would not be unduly disruptive or cause an unacceptable disturbance.
17. I therefore find that the impact of the agricultural unit surrounding the appeal site would not unacceptably affect the living conditions of the future occupiers, by way of smells or noises. The proposed development would not therefore be in an undesirable or impractical location.
18. The Council have raised concerns regarding complaints over flies and smells from the farm affecting nearby residents. However, no substantive evidence has been submitted and it has not been demonstrated that smells and flies came from the poultry barns. I have therefore given this matter limited weight.
19. The appellant has suggested that a condition or unilateral undertaking (UU) could be used in order to restrict the use of the surrounding poultry barns. A UU has been provided with the appeal. However, given my findings above I find that neither would be necessary in this instance.

Conclusion

20. For the reasons given above, I conclude that the appeal should be allowed and prior approval granted.

Samuel Watson

INSPECTOR