

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

Date: Monday, 13 June 2022

**Committee: Northern Planning Committee**

**Date: Tuesday, 21 June 2022**

**Time: 2.00 pm**

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

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

There will be some access to the meeting room for members of the press and public but this will be limited. If you wish to attend the meeting, please email [democracy@shropshire.gov.uk](mailto:democracy@shropshire.gov.uk) to check that a seat will be available for you.

The meeting can be viewed live via Microsoft Teams using the link below. The recording will be made available on YouTube, this will be made accessible from the web page for the meeting shortly afterwards.

[www.shropshire.gov.uk/NorthernPlanningCommittee21June2022](http://www.shropshire.gov.uk/NorthernPlanningCommittee21June2022)

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>

Tim Collard Assistant Director – Legal and Governance

**Members of the Committee**

Joyce Barrow  
Garry Burchett  
Geoff Elnor  
Ted Clarke  
Vince Hunt  
Mark Jones (Vice Chairman)  
Mike Isherwood  
Edward Towers  
David Vasmer  
Alex Wagner  
Paul Wynn (Chairman)

**Substitute Members of the Committee**

Gerald Dakin  
Steve Davenport  
Julian Dean  
Nat Green  
Nigel Hartin  
Pamela Moseley

Your Committee Officer is:

**Emily Marshall / Shelley Davies** Committee Officer

Tel: 01743 257717 / 01743 257718

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

# AGENDA

## 1 Apologies for Absence

To receive apologies for absence.

## 2 Minutes (Pages 1 - 4)

To confirm the Minutes of the meeting of the North Planning Committee held on 24<sup>th</sup> May 2022, attached, marked 2.

Contact: Emily Marshall on 01743 257717

## 3 Public Question Time

To receive any public questions or petitions from the public, notice of which has been given in accordance with Procedure Rule 14. The deadline for this meeting is 5.00 p.m. on Wednesday, 15<sup>th</sup> June 2022.

## 4 Disclosable Pecuniary Interests

Members are reminded that they must declare their disclosable pecuniary interests and other registrable or non-registrable interests in any matter being considered at the meeting as set out in Appendix B of the Members' Code of Conduct and consider if they should leave the room prior to the item being considered. Further advice can be sought from the Monitoring Officer in advance of the meeting.

## 5 Station Yard, Pipe Gate, Market Drayton, Shropshire (22/01789/OUT) (Pages 5 - 24)

Phase 2 residential scheme for development of up to ten housing plots for self-build/custom housing (resubmission of application reference 21/05785/OUT)

## 6 Proposed Residential Development Land North East Of Grove Lane, Bayston Hill, Shrewsbury, Shropshire (22/01619/FUL) (Pages 25 - 54)

Erection of 2No. detached dwellings and associated garages, formation of vehicular and pedestrian access (revised scheme)

## 7 Roundabout Junction A41 and A525, Whitchurch, Shropshire (22/01663/ADV) (Pages 55 - 60)

Erect and display four sponsorship signs placed on the roundabout

## 8 Roundabout Junction A41 And A49, Prees Heath, Whitchurch,(22/01665/ADV) (Pages 61 - 66)

Erect and display three sponsorship signs placed on the roundabout

## 9 Roundabout Junction A53 and A442, Hodnet, Shropshire (22/01667/ADV) (Pages 67 - 72)

Roundabout Junction A53 and A442, Hodnet, Shropshire

## 10 Roundabout Junction B4579 and College Road, Oswestry, Shropshire 22/01669/ADV (Pages 73 - 80)

Erect and display four sponsorship signs placed on the roundabout

- 11 Roundabout Junction A41 and A53, Tern Hill, Shropshire (22/01686/ADV) (Pages 81 - 86)**

Erect and display four sponsorship signs placed on the roundabout

- 12 Roundabout Junction Chester Road and Bargates, Whitchurch, Shropshire (22/01700/ADV) (Pages 87 - 92)**

Erect and display three sponsorship signs placed on the roundabout

- 13 Proposed Essential Workers Dwelling North Of Merrington Bomere Heath Shropshire (21/05888/FUL) (Pages 93 - 102)**

Erection of an essential workers dwelling including parking and amenity space

- 14 Land to the rear of Scout Hut Adj. To Rad Valley Gardens Shrewsbury Shropshire (22/02030/FUL) (Pages 103 - 108)**

Erection of a telecoms shelter with fencing

- 15 Appeals and Appeal Decisions (Pages 109 - 114)**

- 16 Date of the Next Meeting**

To note that the next meeting of the Northern Planning Committee will be held at 2.00 pm on Tuesday 19<sup>th</sup> July 2022 in the Shrewsbury Room, Shirehall, Shrewsbury.

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## Committee and Date

Northern Planning Committee

21<sup>st</sup> June 2022

## **NORTHERN PLANNING COMMITTEE**

### **Minutes of the meeting held on 24 May 2022**

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

**2.00 - 2.55 pm**

**Responsible Officer:** Emily Marshall / Shelley Davies

Email: emily.marshall@shropshire.gov.uk / shelley.davies@shropshire.gov.uk      Tel:

01743 257717 / 01743 257718

### **Present**

Councillor (Chairman)

Councillors Garry Burchett, Geoff Elner, Ted Clarke, Vince Hunt, Mark Jones (Vice Chairman), Mike Isherwood, Edward Towers, Alex Wagner and Steve Davenport (Substitute) (substitute for Joyce Barrow)

## **4 Apologies for Absence**

*In the absence of the Chairman, the meeting was chaired by the Vice-Chairman, Councillor Mark Jones.*

Apologies for absence were received from Councillors Joyce Barrow (substitute: Councillor Steve Davenport), David Vasmer and Paul Wynn.

## **5 Minutes**

### **RESOLVED:**

That the Minutes of the meetings of the North Planning Committee held on 26<sup>th</sup> April and 12<sup>th</sup> May 2022 be approved as a correct record and signed by the Chairman.

## **6 Public Question Time**

There were no public questions or petitions received.

## **7 Disclosable Pecuniary Interests**

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

In relation to planning application, 22/00252/FUL Dragon King, Old Potts Way, Shrewsbury, Councillor Garry Burchett declared that he had worked for McDonalds some years ago.

## **8 Rowleys House, Barker Street, Shrewsbury - 22/00817/LBC**

The Principal Planning Officer introduced the application for the internal and external alterations in association with replacement and repair of infill panels and repair of associated timber frame, affecting a Grade II \* Listed Building.

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

**RESOLVED:**

That Listed Building Consent be granted subject to the conditions as set out in Appendix 1.

**9 Dragon King, Old Potts Way, Shrewsbury - 22/00252/FUL**

The Technical Specialist Planning Officer introduced the application for the erection of drive-through restaurant following demolition of existing restaurant. Members' attention was drawn to the information contained within the Schedule of Additional letters. The Technical Specialist Planning Officer reported an amendment to the wording of condition 6 to add prior to any above ground works commencing on site.

Councillor Ted Clarke, as local ward councillor, read out a statement made by Councillor Tony Parsons, as local ward councillor in accordance with the Local Protocol for Councillors and Officers dealing with Regulatory Matters (Part 5, Paragraph 15.1).

Councillor Ted Clarke, as local ward councillor, read out a statement made by Councillor Rosemary Dartnall as local ward councillor in accordance with the Local Protocol for Councillors and Officers dealing with Regulatory Matters (Part 5, Paragraph 15.1).

In accordance with the Local Protocol for Councillors and Officers dealing with Regulatory Matters (Part 5, Paragraph 15.1) Councillor Ted Clarke, as local ward councillor, made a statement and then moved to the back of the room, took no part in the debate and did not vote on this item.

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

**RESOLVED:**

That planning permission be granted subject to the conditions set out in Appendix 1 and an amendment to the wording of condition 6 to add prior to any above ground works commencing on site.

**10 Proposed Telecoms Shelter on Car Park at Bainbridge Green, Shrewsbury - 22/01506/FUL**

The Principal Planning Officer introduced the application for the installation of a telecoms shelter, security fencing and associated works.

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

**RESOLVED:**

That planning permission be granted subject to the conditions set out in Appendix 1 and the informative advice in paragraph 2.2.

**11 Appeals and Appeal Decisions**

**RESOLVED:**

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

**12 Date of the Next Meeting**

It was noted that the next meeting of the North Planning Committee would be held at 2.00 p.m. on Tuesday 21<sup>st</sup> June 2022, in the Shrewsbury/Oswestry Room, Shirehall, Shrewsbury.

Signed ..... (Chairman)

Date: .....

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Committee and date  
  
North Planning Committee  
21<sup>st</sup> June 2022

Item  
  
  
  
Public

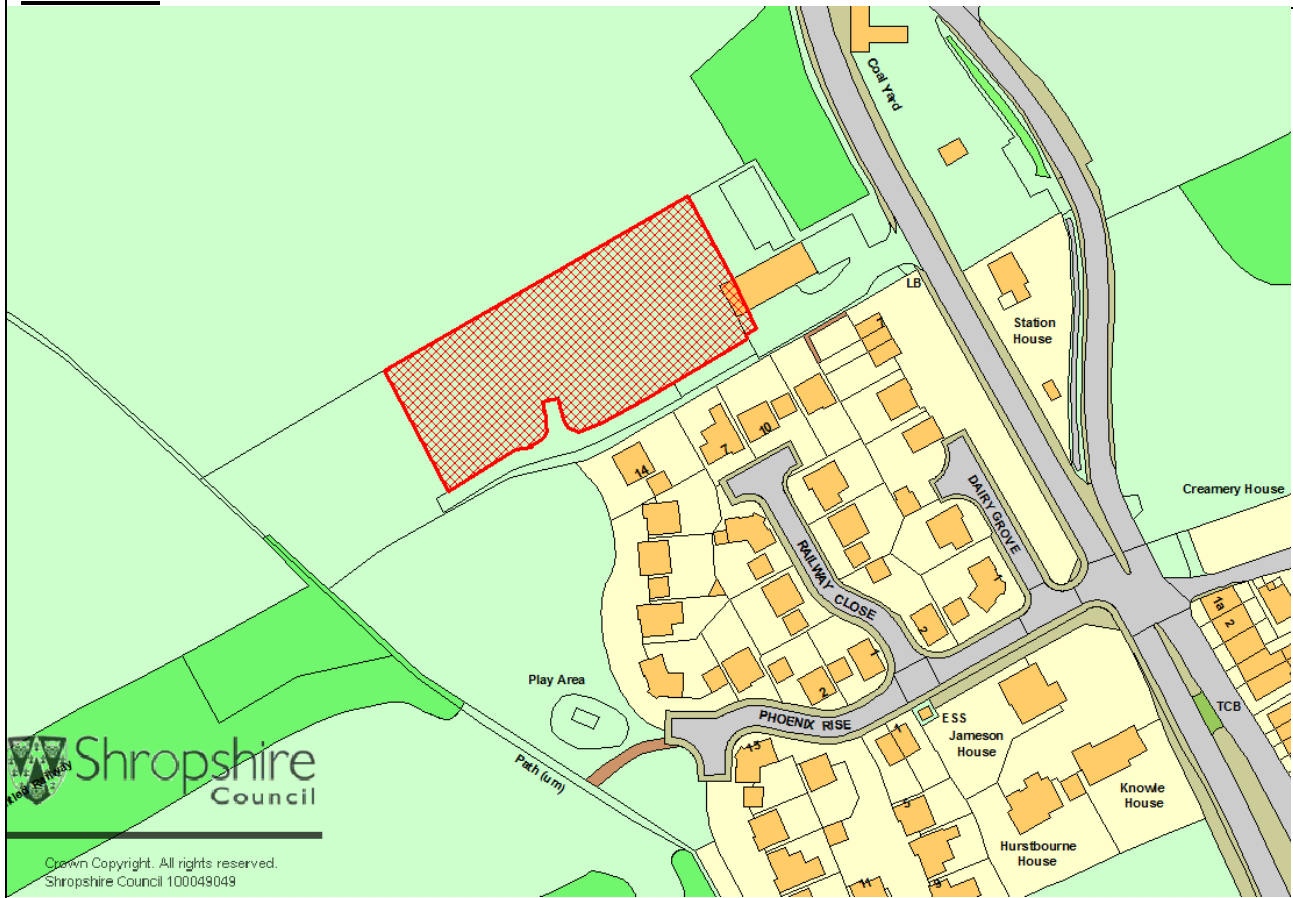
## Development Management Report

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

### Summary of Application

|   |  |       |
|---|--|-------|
| <b>Application Number:</b> 22/01789/OUT   | <b>Parish:</b>   | Woore |
| <b>Proposal:</b> Phase 2 residential scheme for development of up to ten housing plots for self-build/custom housing (resubmission of application reference 21/05785/OUT) |  |       |
| <b>Site Address:</b> Station Yard, Pipe Gate, Market Drayton, Shropshire  |  |       |
| <b>Applicant:</b> Woodcock Developments Limited   |  |       |
| <b>Case Officer:</b> Richard Denison  | <b>Email:</b> <a href="mailto:planning.northern@shropshire.gov.uk">planning.northern@shropshire.gov.uk</a> |       |

**Grid Ref:** 373638 - 340851



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

## **REPORT**

### **1.0 THE PROPOSAL**

1.1 This is a resubmission of a recently refused outline application for a residential development for up to ten self-build dwellings on an area of vacant commercial land in Pipe Gate. The application is only to consider the principle for development with all matters reserved for later approval. The proposed site covers an area of 0.37 hectares. The previous application was refused on the ground of inadequate open space for future residents and that the adjoining commercial unit may result in noise disturbance. This application has been accompanied by a detailed Noise Impact Assessment, whilst a phasing plan has indicated the indicative layout of ten dwellings and an appropriate level of open space.

### **2.0 SITE LOCATION/DESCRIPTION**

2.1 The Station Yard site is a long and narrow parcel of land adjacent to the modern housing development on the former Phoenix Rubber factory site. The land currently contains a mix of small businesses in various buildings; a two storey shop unit to the front of the site and an existing vehicle repair garage use. The adjacent estate is predominately large detached orange brick and concrete tiled dwellings and incorporates an area of open space and children play equipment. On the opposite side of the main road are a row of older semi-detached houses. Open countryside is located directly to the north and west.

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

3.1 The scheme complies with the delegation to Officers as set out in Part 8 of the Shropshire Council Constitution.

### **4.0 COMMUNITY REPRESENTATIONS**

#### **4.1 Consultee Comments**

4.1.1 **Shropshire Council, Highways** - The application is a resubmission of the relatively recent proposal under reference 21/05785/OUT, which is noted was refused on policy grounds in relation to provision of public open space and amenity value. The resubmission continues to raise no highway objection in principle. It is noted that the plots are intended to be marketed as self-build homes with each plot potentially being progressively sold to individual purchasers/developers. From the highway perspective it is fundamental that the approved access junction and drive under Phase 1 (21/02241/FUL) be completed to an appropriate level prior to the development of any of the individual plots. It is also noted that an option to increase the number of houses from 10 to 12 is also stated by the provision of semi-detached properties on plots 9 and 10, which is yet to be determined in the submission of a reserved matters application. In the event that this is forwarded the parking allocation will need to be increased from the parking layout provision indicatively

shown. Subject to the conditions listed above being included on any approval, there are no sustainable Highway grounds upon which to base an objection.

- 4.1.3 **Shropshire Council, Housing** - The application shows the correct amount of affordable housing contribution, although an Affordable Housing Proforma needs to be submitted so the affordable housing contribution can be calculated and agreed.
- 4.1.4 **Shropshire Council, Ecology** - No objection is raised subject to conditions and informatives to ensure the protection of wildlife and to provide ecological enhancements under NPPF, MD12 and CS17.
- 4.1.5 **Shropshire Council, Drainage** - No objection is raised subject to a safeguarding condition regarding surface and foul water drainage. Surface water and foul drainage schemes for the development should be designed and constructed in accordance with the Council's SUDS Handbook which is available in the Related Documents Section on the Council's Website at:

<https://shropshire.gov.uk/drainage-and-flooding/development-responsibility-and-maintenance/sustainable-drainage-systems-handbook/>

Appendix A1 - Surface Water Drainage Proforma for Major Developments must be completed and together with associated drainage details, must be submitted for approval.

- 4.1.6 **Shropshire Council, Environment Protection** - Environmental Protection have reviewed the application and have the following comments relating to noise and contaminated land:

#### Noise

The noise assessment has concluded that with the roller shutter doors open in the garage there is likely to be a significant adverse impact on the residential amenity of the proposed dwellings, with the doors shut and a 3m barrier along the boundary of the garage the impact is low. Generally Environmental Protection would require garages to be assessed with the doors open as garages often operate with the roller doors open for significant amount of the time. However, the planning consent (18/05865/FUL) relating to the new garage building requires that all doors shall be kept shut when the garage is in use, see condition 8 below:

*No operations shall take place in the commercial garage unless all openings to the external area are closed.*

*Reason: to protect the amenity of neighbouring residents.*

Therefore, if the garage is operated in accordance with the conditions of the planning consent and a 3m noise barrier is constructed along the boundary of the garage site the noise impact from the garage is expected to be low. Should it be considered appropriate to grant consent I recommend that the following condition is applied:

*A 3m high acoustic barrier, of at least 10kg/m<sup>2</sup> in density, shall be constructed along the boundary between the garage and the residential development. The barrier shall be completed prior to the first occupation of the development and shall thereafter be retained.*

*Reason: to protect residents from any detrimental noise impact from the neighbouring commercial use.*

### Contaminated Land

This application is a resubmission of an application that was previously refused, and no new information has been supplied. Therefore, Environmental Protections comments previously made, remain exactly the same.

Environmental Protection commented on a planning application (21/02241/FUL) for Phase 1 of this development site, and the same ground investigation report (Sladen Associates, 'Report on Phase 2 Ground Investigation, Proposed Residential & Commercial Development, Old Station Yard, Pipe Gate, Shropshire; Job No. 15 1551, December 2015) has been submitted in support of this application, for Phase 2.

The report cannot be accepted as it is now over 6 years old and therefore our comments remain largely the same.

The report references the following report by Arc Environmental, 'Phase 1 Desk Top Study; Proposed Residential Development at Old Station Yard, Pipe Gate, Market Drayton, Shropshire, TF9 4HU; Report No. 14-236, March 2015'. This report has not been included with this submission and Regulatory Services request a copy of this document, although it is likely to be superseded (see comments below).

Environmental Protection has identified the proposed development site as 'potentially' contaminated land due to historic land uses and the report by Sladen Associates has identified unacceptable risks. However, the site investigation by Sladen Associates was carried out in excess of 6 years ago and therefore the potential risks will need to be re-evaluated and a more up to date site investigation undertaken.

4.1.7 **Severn Trent Water** - With Reference to the above planning application the company's observations regarding sewerage are as follows:

I can confirm that we have no objections to the proposals subject to the inclusion of the following condition:

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

4.1.8 **Woore Parish Council** OBJECTS to the above Planning Application and request this is refused on the following grounds:

- The proposal is for a Development of up to ten dwellings. Woore Neighbourhood Plan 2016-2036 (WNP) clearly states in Policy HOU1, "small scale developments of up to ten dwellings per development". On the 8th of November permission was Granted for 21/02241/FUL for 4 Detached Dwellings for the same site. Therefore, should be refused with the maximum of a further 6no only considered in any application for this site.
- The Planning Statement that accompanied this Application at 3.10 states Policy S11.2 (7) of the SAMDev Plan 2015 quotes "... with housing development on two significant sites providing 75 homes. There is therefore limited potential for development of approximately 15 dwellings over the period 2026....." When these two sites were completed, they totalled actually 88 homes. With the limited potential of approximately 15 dwellings over the period to 2026 been far exceeded with 52no dwellings either built, or in the process or received planning permission, since SAMDev was adopted in 2015.
- The Woore Neighbourhood Plan 2016-2036 "envisages that around 30 additional dwellings from 2016-2036 will be delivered". Since the Plan was adopted in May 2019 there have been 21 dwellings either built, or in the process or received planning permission. This does include the 4 already Granted for this site. In total since 2016 there have been a total of 51 which is well more than the proposed in the WNP.
- The Planning Statement at 6.2.6 states "the site has pedestrian access along the existing footpath into Woore which is less that 1km away along a flat footpath which provides a number of essential day to day services." The distance is 2km with residents having to cross the A51 up to three times to reach the centre of Woore, it is not continuous. The Parish Council are currently in negotiations with Shropshire Council, West Mercia Police and HS2 Ltd having raised issues regarding Health, Safety and Wellbeing of the residents in using the existing footpath. HS2 Ltd have approval to use the A51 for circa 7 years allowing for 180,000 - 200,000 HGVs, plus other Construction Traffic during this period.
- The Parish Council are also aware that currently Woore Nursery & Primary School are awaiting confirmation from Shropshire Council on approval for funding for an extension to the school to accommodate the increased numbers of pupils due to the housing growth in the Parish as detailed above.
- Further to the Granting of permission for 21/02241/FUL the Parish Council still feels that the following comments have not been answered by the Applicant which were raised and are still applicable for this particular application also:

The Parish Council are in total disagreement, until proven otherwise, with the following Consultee Comments submitted by Severn Trent of the 28<sup>th</sup> September 2021, "As the proposal has minimal impact on the public sewerage system I can advise we have no objections to the proposals and do not require a drainage condition to be applied."

- The works were started without consent and the pre-commencement planning conditions not complied with.
- There is no detail of the s106 provision originally covered. This should be covered off before consent.
- There is no planning for works done to date.
- There is no building control consent for works done to date.
- The planning conditions from previous applications were not adhered to.
- What is the remediation strategy for the site?
- What will the applicant do about services laid to date? The Parish Council understand these were installed without a remediation strategy or input from statutory undertakers or the building control?
- If this is the case, how can the developer demonstrate the safety of, for example, the water supply?

Woore Parish Council reiterate the following matters that were raised in the previous applications:

Woore Parish Council during the Consultation for Planning Application 21/02241/FUL again referred to the following: "The Parish Council are also still concerned about the sewerage network capacity as well as surface water drainage in Woore Parish, this was reported as critical in 2012/13 Place Plan with no work carried out to upgrade the systems and they wish Shropshire Council Planning Officers to take this into consideration." This was also re-enforced with a communication to Shropshire Council in August 2021 requesting that no further Planning Applications be Granted until further full investigations are carried out. The Parish Council are still awaiting a response from Shropshire Council on this issue.

The above Objection is subject to Consultee Comments.

## 4.2 **Public Comments**

4.2.1 No public representations have been received.

## 5.0 **THE MAIN ISSUES**

- Background
- Policy & Principle of Development
- Design, Scale and Character
- Impact on Residential Amenity
- Highways
- Ecology
- Drainage
- Affordable Housing
- Other Matters

## 6.0 **OFFICER APPRAISAL**

### 6.1 **Background**

6.1.1 Outline planning permission was granted on the 20<sup>th</sup> April 2015 for the re-development of storage land at Station Yard, Pipe Gate which included the

demolition of buildings; erection of 10 detached dwellings; 1 live-work dwelling; detached motor repair garage; detached shop with office over; formation of car parking area; extension of existing private driveway; location of cycle racks and shop refuse storage area all served off existing access (application reference 12/04469/OUT).

- 6.1.2 Condition 2 indicated that reserved matters was required to be submitted within three years from the date of the outline application, whilst condition 3 required development to begin before the expiration of two years from the date of approval of the last reserved matters. The outline application also included three pre-commencement conditions that required to be complied with prior to any work commenced on site. These were condition 8 which required the submission of a site investigation report regarding the extent of contamination on site and proposed mitigation measures; condition 9 which required details of the means of access including the layout, construction and sight lines; and condition 10 which required a survey of the width and features of the existing public footpath which indicated recommendations of access and improvements to the footpath.
- 6.1.3 A reserved matters application was received on the 4<sup>th</sup> August 2015 for the layout, landscaping, appearance and scale and was approved on the 4<sup>th</sup> March 2016 (application reference 15/03221/REM). A subsequent reserved matters application was received on the 26<sup>th</sup> February 2016 for a revised landscaping scheme and was approved on the 31<sup>st</sup> March 2016 (application reference 16/00820/REM).
- 6.1.4 A Building Regulations application was received on the 8<sup>th</sup> May 2018 for the erection of 11 dwellings (application reference 18/02337/DOMFP), although no works in connection with this application have commenced on any of the plots. A further Building Regulations application was received on the 3<sup>rd</sup> February 2020 for the erection of a detached garage building (application reference 20/00433/COMFPA), although this application is invalid as no payment had been submitted.
- 6.1.5 Prior to any work commencing on site a discharge of conditions application would have needed to be approved in relation to conditions 8, 9 and 10 and work would have had to commence by the 31<sup>st</sup> March 2018. Although part of the access road has been laid out and services installed no discharge of conditions application has been submitted in accordance with the pre-commencement conditions and therefore the outline planning permission has now lapsed and cannot be implemented.
- 6.1.6 A recent full application for four detached dwellings was approved in November 2021 and included the formation of an estate road and alterations to the vehicular access (ref. 21/02241/FUL). This application was considered as Phase 1 for plots 1 to 4.
- 6.1.7 A recent outline application for ten self-build dwellings (plots 5 to 14) was refused in March 2022 (ref. 21/05785/OUT). Concerns were raised that the development did not demonstrate adequate open space for future residents and that inadequate information had been submitted in relation to the adjoining commercial use which has the potential to result in noise impact on future residents.

## 6.2 **Policy & Principle of Development**

- 6.2.1 Applications for planning permission must be determined in accordance with the development plan unless material considerations indicate otherwise (Section 38(6))

of the Planning and Compulsory Purchase Act 2004). Proposed development that accords with an up-to-date Local Plan should be approved, and proposed development that conflicts should be refused, unless other material considerations indicate otherwise. The National Planning Policy Framework constitutes guidance for local planning authorities as a material consideration to be given significant weight in determining applications.

- 6.2.2 The NPPF in itself constitutes guidance for local planning authorities as a material consideration to be given significant weight in determining applications. The NPPF sets out the presumption in favour of sustainable development through plan-making and decision-taking. The NPPF reiterates that in assessing and determining development proposals, local planning authorities should apply the presumption in favour of sustainable development. These considerations have to be weighed alongside the provisions of the development plan. Development plan policies of particular relevance to assessing the acceptability of this housing application in principle are discussed below.
- 6.2.3 For the purposes of the assessment of this application the development plan presently comprises of the adopted Shropshire Core Strategy 2011; the adopted Site Allocations and Management of Development Plan 2015; Supplementary Planning Documents; and the Woore Neighbourhood Plan (adopted May 2019).
- 6.2.4 Policies CS1 and CS4 of the Core Strategy set out the strategic approach to housing provision. It is envisaged that Community Hubs and Clusters will enable the rural rebalance to make rural areas more sustainable and accommodate around 35% of Shropshire's residential development. The identification of hubs and clusters is done through the SAMDev Plan and therefore policy CS4 is reliant on the SAMDev for the detail of settlement allocation. Policies CS1 and CS4 are consistent with the objectives of the NPPF to focus new development in sustainable locations.
- 6.2.5 Policy S11.2(vii) of the SAMDev Plan indicates Woore, Irelands Cross and Pipe Gate as an allocated Community Hub reflecting the links between the three areas within the Parish. Woore has provided for significant housing growth through the former North Shropshire Local Plan, with housing development on two significant sites providing 75 homes. There is therefore limited potential for development of approximately 15 dwellings over the period to 2026 which will be delivered through limited infilling, conversions and small groups of houses which may be acceptable on suitable sites within the villages, avoiding ribbon development along the A51. Any development must respect the sensitive gap between Woore, Irelands Cross and Pipe Gate to prevent coalescence of the settlements.
- 6.2.6 The proposed residential development is considered to be located within Pipe Gate settlement with existing dwellings being located along the southern boundary and to the north. The site has pedestrian access along the existing footpath into Woore which is less than 1km away along a flat footpath which provides a number of essential day to day services.
- 6.2.7 Woore Parish Council have raised concerns that the proposed development is up to ten housing plots, It is also noted that the previous application 21/02241/FUL approved four detached dwellings on the same site. The Parish Council have made reference to the Woore Neighbourhood Plan (2016 - 2036) which indicates in policy HOU1 that housing would be delivered incorporating small scale residential



development of up to ten dwellings per development. The Parish Council therefore suggest that this current application should only provide six dwellings.

6.2.7 Policy HOU1 'Scale and Location of New Housing' in the Woore Neighbourhood Plan identifies development boundaries around the individual parts of the Community Hub of Woore, Irelands Cross and Pipe Gate in order to meet local housing needs, and to remain on a scale appropriate to the existing character of Woore Parish, it is envisaged that around 30 additional dwellings from 2016 - 2036 will be delivered, incorporating small scale residential developments of up to 10 dwellings per development. The proposed development site falls wholly within the development boundary as indicated in the Woore Neighbourhood Plan and will utilise previously developed land adjacent to existing residential development and would not adversely affect the local landscape character and visual amenity.

6.2.8 Officers note the concerns raised by the Parish Council regarding the number of dwellings, although this application is only for up to ten dwellings. Therefore, the principle for residential development is acceptable through the Woore Neighbourhood Plan.

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

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

6.3.2 This is an outline application with all matters reserved including the proposed layout, scale and appearance. An indicative layout plan has been submitted indicating the provision of six detached and four semi-detached dwellings with driveways, parking areas and private rear gardens. The proposed site covers 0.37 hectares and it is considered that there is adequate land available to provide a residential scheme in the region of up to ten dwellings with appropriate access, driveways and garden areas. There is sufficient depth to the site to enable the dwellings to be set back from the previously approved estate road to allow the provision of a new footpath and front gardens.

6.3.3 Policy MD2 of the SAMDev Plan indicates that adequate open space set at a minimum standard of 30sqm per person is provided for residential developments and that for developments of 20 dwellings and more the open space needs to comprise of a functional area for play and recreation. The previous application was refused as the indicative layout plan did not demonstrate the provision of any open space and there was no mechanism to provide any improvements to the adjoining public open space and toddler play area on the Phoenix Rise Play Area. As such the development did not comply with policy MD2 in relation to providing adequate open space provision for the future residents and was refused.

6.3.4 This current application has indicated an open space requirement of 1,350sqm would be required based on the indicative dwelling sizes. The indicative layout plan

has indicated the provision of 1,097sqm public open space, whilst the structural landscaping along the estate road will provide approximately 300sqm of additional open space. The majority of the open space will be located directly adjacent to the north eastern boundary and will include natural surveillance from plots 8, 9 and 10. It is envisaged that this area will be landscaped and provide an appropriate separation from the housing and the commercial development. It is intended that the proposed open space would be maintained by a management company which the residents of the dwellings would sign up to. Although the long term ownership and maintenance of the open space will be included as part of a Section 106 legal agreement to allow the retention of the open space in perpetuity. A children's play area is located on the Phoenix Rise estate to the south of the development site and includes a large area of additional public open space and a toddler play area which residents could utilise. There is also a good network of local public footpaths in the area providing residents opportunities for recreation and exercise. This revised indicative layout would provide adequate open space in accordance with policy MD2.

#### **6.4 Impact on Residential Amenity**

- 6.4.1 Policy CS6 'Sustainable Design and Development Principles' of the Shropshire Core Strategy indicates that development should safeguard the residential and local amenity. The nearest neighbouring residential properties are those on the former Phoenix Rubber factory site to the south developed by Taylor Wimpey. There are no immediate adjacent dwellings with the nearest dwellings being over 21 metres away from the site boundary. Having regard to the distance any dwellings will not result in any overlooking or loss of privacy, cause any overbearing impact or loss of light. The movements of up to ten households along the proposed estate road will be minimal and will not result in any significant detrimental noise or disturbance.
- 6.4.2 Environmental Protection raised concerns on the previous application regarding the commercial use to the north east which could cause noise and would impact on the amenity of the proposed dwellings. The existing commercial premises includes a vehicle service garage, office and a graphics design store. A detailed Noise Impact Assessment has been undertaken which concluded that with the roller shutter doors open in the garage there is likely to be a significant adverse impact on the residential amenity of dwellings. However, with the doors shut and a 3 metre barrier along the boundary of the garage the impact would be low. Generally Environmental Protection would require garages to be assessed with the doors open as garages often operate with the roller doors open for significant amount of the time. However, the planning permission 18/05865/FUL relating to the new garage building requires in condition 8 that all doors shall be kept shut when the garage is in use. The Council has not received any noise complaints from existing local residents living on Phoenix Rise and as such it is understood that this condition is being complied with. As such Environmental Protection have raised no objection subject to the installation of an acoustic noise barrier. Amended plans have been received to the indicative layout plan since the Noise Impact Assessment was undertaken which has repositioned dwellings a further 12 metres away from the commercial building due to an increase in the width of the open space which would further assist in minimising noise impact.
- 6.4.3 Regulatory Services has also identified the proposed development site as potentially contaminated land due to historic land uses and the report by Sladen Associates has identified unacceptable risks. However, the site investigation by

Sladen Associates was carried out in excess of 5 years ago and therefore the potential risks will need to be re-evaluated and a more up to date site investigation undertaken. A contaminated land safeguarding condition is proposed which would prevent any works commencing until a detailed site investigation is undertaken and appropriate remediation strategy.

- 6.4.3 Overall it is considered that the amenities of the existing residents will be protected and not affected to any greater extent from the proposed development. However, the proximity of a potential commercial noise source adjoining the site has the potential to impact on the amenity of future occupiers of the development.

## 6.5 Highways

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

- 6.5.2 The proposed vehicular access and estate road has been approved under application 21/02241/FUL which provides significant improvements to the road junction onto the A51. The access indicated that it would have a 6 metre wide estate road and splayed entrance with visibility splays of 2.4 metres by 79 metres in both directions. The speed limited through Pipe Gate is restricted to 40mph and the Council highways consultants have raised no objection to the access subject to safeguarding conditions regarding the design details for the access, visibility, parking, turning and access apron details being agreed.

## 6.6 Ecology

- 6.6.1 Policy CS17 'Environmental Networks' of the Shropshire Core Strategy indicates that development will identify, protect, expand and connect Shropshire's environmental assets to create a multifunctional network and natural and historic resources. This will be achieved by ensuring that all development protects and enhances the diversity, high quality and local character of the natural environmental and does not adversely affect the ecological value of the assets, their immediate surroundings or their connecting corridors. This is reiterated in national planning guidance in policy 11 'Conserving and Enhancing the Natural Environment' of the National Planning Policy Framework. This indicates that the planning system should contribute to and enhance the natural and local environment by protecting and enhancing valued landscapes, minimising impacts on biodiversity and providing net gains where possible.

- 6.6.2 A detailed Ecological Appraisal has been carried out by Greenscape Environmental to provide an assessment of the ecological value of the site in local context and to identify potential ecological constraints relating to the development and recommend measures to avoid, reduce or manage negative effects and provide a net ecology gain.

- 6.6.3 The application site is set in a rural environment and comprises of part on an active builder's yard and former station yard. There are built structures, hardstanding, bare

earth, amenity grassland, ornamental planting, scattered scrub, tall ruderal herb, scattered trees and hedgerows. All buildings and trees on site are considered to offer 'negligible' bat roosting potential, although the site as a whole offers moderately good commuting and foraging habitat for bats and is in an area known to support several species of bats. Bat provision and a sensitive lighting scheme are recommended as enhancements.

- 6.6.4 The scrub, long-term stored building materials, trees and hedgerows present on the site and boundaries provide 'high' bird nesting potential and therefore a sensitive tree works scheme is required, along with bird box provision, native species planting as an enhancement.
- 6.6.5 There are no significant standing water bodies were identified within a 250 metres zone of influence and therefore Great Crested Newts are not considered a constraint to the proposed development.
- 6.6.6 The site provides overall good-quality reptile/amphibian habitat, but a previous reptile Presence/Likely Absence Survey indicated the absence of reptile species and no amphibian species were detected either. Being a commercial site and active in places, it is classed as disturbed ground, there is also limited connectivity to potential areas of favourable reptile habitat off site, residential housing and arable land surround. Reptiles or amphibians are not considered a constraint to the proposed development.
- 6.6.7 Field signs indicating use of the site by badgers was found and a badger path was detected from the west. Badgers are not considered a constraint to the proposed development, providing mitigation/recommendations are followed and reasonable avoidance measures adopted. A pre-commencement badger survey must be undertaken of the site by an ecologist prior to any works commencing including when site is cleared.
- 6.6.8 The Ecology Team have raised no objection to the application subject to safeguarding conditions and informatives.

## 6.7 **Drainage**

- 6.7.1 Policy CS18 'Sustainable Water Management' of the Shropshire Core Strategy indicates that development should integrate measures of sustainable water management to reduce flood risk, avoid an adverse impact on water quality and quantity and provide opportunities to enhance biodiversity.
- 6.7.2 The Parish Council have raised concerns about the sewerage network capacity as well as surface water drainage in Woore Parish. The Market Drayton Place Plan has indicated sewerage network capacity as a 'Priority A Project' in Woore and it is indicated that no upgrade has been undertaken to the system.
- 6.7.3 The application indicates that foul water drainage will be directed to the existing foul mains which is the preferred option and allows the foul water to be dealt with in an effective and sustainable manner. The developer would need to apply to Severn Trent Water to make changes to an existing sewer connection, changing sewer flows or using an existing connection as you can't connect to a public sewer without approval. Severn Trent Water has to assess the connection requirements and check

that their existing network has capacity for the proposed connections and would not allow any new connections if there was not capacity.

6.7.4 Severn Trent Water have indicated that the provision of ten dwellings has minimal impact on the public sewerage system and have no objections to the development subject to a safeguarding condition.

6.7.5 The application indicates that surface water will be disposed of via soakaways and the Drainage Engineer has indicated that percolation test and soakaways should be designed in accordance with BRE Digest 365. No concerns have been raised regarding the suitability of the local ground conditions and therefore it is recommend that both the foul and surface water drainage are conditioned accordingly for details to be submitted and approved prior to the commencement of works on site.

## 6.8 **Affordable Housing**

6.8.1 Policy CS11 'Type and Affordability of Housing' of the Core Strategy indicates that all new open market housing development should make an appropriate contribution to the provision of local needs affordable housing having regard to the current prevailing target rate as set out in the Shropshire Viability Index.

6.8.2 The previous application 21/02241/FUL approved four new dwellings (plots 1 to 4) and was considered as Phase 1 of a larger site to develop the former Station Yard. This application on its own did not meet the trigger point for providing an affordable housing contribution. However, this site clearly forms part of a larger redevelopment site and the highway access and estate road being considered under the previous application will provide access for the rest of the site. Therefore, the proposed dwellings under this Phase 1 application should be taken into account when the affordable housing provision is calculated under the current Phase 2 application.

6.8.3 The existing target rate for Pipe Gate is currently 15% and should ten additional dwellings be proposed for Phase 2 this would equate to 2.1 affordable dwellings be provided across both phases (4 dwellings + 10 dwellings x 15% = 2.1). Therefore, Phase 2 would have to provide two on site affordable dwellings and a financial contribution for the remaining 0.1. The affordable housing contribution would be subject to a Section 106 agreement under this current Phase 2 application.

## 6.9 **Other Matters**

6.9.1 The Parish Council have indicated that the footpath from the proposed site to the centre of Woore village is 2km and that it is not continuous. Officers have measured the distance which indicates that the access of the development will be 1.1km from the outer edge of Woore and 1.6km from the cross road junction of the A51 and A525 in the centre. It is acknowledged that the footpath is not continuous on one side of the road and pedestrians would need to cross. However, it does provide a safe pedestrian link for any residents who wish to access services on foot.

6.9.2 The Parish Council have also raised a number of queries regarding existing drainage and laying of services which have had no agreement by statutory undertakers or Building Control. However, these matters are outside of the control of planning and the builder would need to seek approval from the relevant authorities to enable the development to be signed off as completed.

## **7.0 CONCLUSION**

- 7.1 The proposed site falls within the development boundary for Woore Neighbourhood Plan and forms part of the Woore, Irelands Cross and Pipe Gate Community Cluster and therefore the principle for residential development is acceptable. The development site can be developed to provide a safe means of access, suitable drainage and a layout which could be designed to prevent any detrimental impact on neighbouring properties. The use of the land would not result in the impact on any protected species and wildlife, whilst no important trees will be lost.
- 7.2 This revised application has demonstrated that adequate open space can be provided for the future residents in compliance with policy MD2 of the SAMDev Plan. Whilst the Noise Impact Assessment has demonstrated that subject to an acoustic wall and open space separating the dwellings the noise impact on future residents would be acceptable in compliance with policy CS6 of the Core Strategy. Therefore, this application is recommended for approval.
- 7.3 This application will be subject to a Section 106 obligation to secure the affordable housing provision and long term, ownership, maintenance and perpetuity of the open space.
- 7.4 In arriving at this decision the Council has used its best endeavours to work with the applicants in a positive and proactive manner to secure an appropriate outcome as required in the National Planning Policy Framework.

## **8.0 RISK ASSESSMENT AND OPPORTUNITIES APPRAISAL**

### **8.1 Risk Management**

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

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

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

## 8.2 Human Rights

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

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

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

## 8.3 Equalities

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

## 9.0 FINANCIAL IMPLICATIONS

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

## 10.0 BACKGROUND

### 10.1 Relevant Planning Policies

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

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

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

CS6 : Sustainable Design and Development Principles

CS11 : Type and Affordability of Housing

CS17 : Environmental Networks

CS18 : Sustainable Water Management

Supplementary Planning Document - Type and Affordability of Housing

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

MD2 : Sustainable Design

MD3 : Delivery of Housing Development

MD12 : Natural Environment

MD13 : Historic Environment

S11 : Market Drayton

## **Woore Neighbourhood Plan (May 2019):**

### **10.2 Relevant Planning History**

21/05785/OUT - Outline application Phase 2 residential scheme: Development of up to 10 housing plots for self-build/custom dwellings. Refused 11<sup>th</sup> March 2022.

21/02241/FUL - Erection of four detached dwellings with detached garages; formation of estate roads; Application under Section 73A of the Town and Country Planning Act 1990 for the formation of access road and infrastructure (sewer). Granted 8<sup>th</sup> November 2021.

21/00348/AMP - Non material amendment to the layout and elevations of the four plots at the rear of the site relating to Planning Permission 15/03221/REM. Refused 11<sup>th</sup> February 2021.

16/00820/REM - Reserved matters (landscaping) pursuant to outline permission 12/04469/OUT for the re-development of the site. Granted 31<sup>st</sup> March 2016.

15/03221/REM - Reserved matters (layout, landscaping, appearance, scale) pursuant to outline permission 12/04469/OUT for the re-development of the site. Granted 4<sup>th</sup> March 2016.

12/04469/OUT - Re-development of site including demolition of buildings; erection of 10 detached dwellings; 1 live-work dwelling; detached motor repair garage; detached shop with office over; formation of car parking area; extension of existing private driveway; location of cycle racks and shop refuse storage area all served off existing access. Granted 21<sup>st</sup> March 2015.

### **11.0 ADDITIONAL INFORMATION**

List of Background Papers - Planning Application reference 22/01789/OUT

Cabinet Member (Portfolio Holder) - Cllr Edward Potter

Local Member - Cllr Roy Aldcroft

Appendices

APPENDIX 1 - Conditions

## **APPENDIX 1**

### ***Conditions***

#### **STANDARD CONDITION(S)**

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



Reason: The application is an outline application under the provisions of Article 5 of the Development Management Procedure (England) Order 2015 and no particulars have been submitted with respect to the matters reserved in this permission.

2. Application for approval of the reserved matters shall be made to the local planning authority before the expiration of three years from the date of this permission.  
Reason: This condition is required to be imposed by Section 92 of the Town and Country Planning Act, 1990.
3. The development hereby permitted shall be begun before the expiration of two years from the date of approval of the last of the reserved matters to be approved.  
Reason: This condition is required to be imposed by Section 92 of the Town and Country Planning Act, 1990.
4. The development shall be carried out strictly in accordance with the approved plans and drawings  
Reason: For the avoidance of doubt and to ensure that the development is carried out in accordance with the approved plans and details.

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

5. No development shall commence until Phasing Plans have been submitted to and approved in writing by the Local Planning Authority. The Phasing Plans shall provide for a programme for the implementation of the development of the site and the respective timing and implementation of associated open space and infrastructure required to serve each phase. The development shall proceed in accordance with the approved Phasing Plans or such other Phasing Plans which may be agreed with the Local Planning Authority.  
Reason: To ensure that the development is delivered in a coordinated manner and to clarify which units are self/custom build.
6. No development shall commence until a badger inspection by an appropriately qualified and experienced ecologist has taken place. Should any evidence of badgers be recorded from that inspection a mitigation strategy setting out appropriate actions shall be submitted and approved in writing by the Local Planning Authority before any development commences. These measures will be implemented as approved.  
Reason: To ensure the protection of badgers under the Protection of Badgers Act 1992.
7. a) No development, with the exception of demolition works where this is for the reason of making areas of the site available for site investigation, shall take place until a Site Investigation Report has been undertaken to assess the nature and extent of any contamination on the site. The Site Investigation Report shall be undertaken by a competent person and conducted in accordance with current Environment Agency guidance ' Land Contamination: Risk Management (LCRM). The Report is to be submitted to and approved in writing by the Local Planning Authority.  
  
b) In the event of the Site Investigation Report finding the site to be contaminated a further report detailing a Remediation Strategy shall be submitted to and approved in

writing by the Local Planning Authority. The Remediation Strategy must ensure that the site will not qualify as contaminated land under Part 2A of the Environmental Protection Act 1990 in relation to the intended use of the land after remediation.

c) The works detailed as being necessary to make safe the contamination shall be carried out in accordance with the approved Remediation Strategy.

d) In the event that further contamination is found at any time when carrying out the approved development that was not previously identified it must be reported in writing immediately to the Local Planning Authority. An investigation and risk assessment must be undertaken in accordance with the requirements of (a) above, and where remediation is necessary a remediation scheme must be prepared in accordance with the requirements of (b) above, which is subject to the approval in writing by the Local Planning Authority.

e) Following completion of measures identified in the approved remediation scheme a Verification Report shall be submitted to and approved in writing by the Local Planning Authority that demonstrates the contamination identified has been made safe, and the land no longer qualifies as contaminated land under Part 2A of the Environmental Protection Act 1990 in relation to the intended use of the land.

Reason: To ensure that risks from land contamination to the future users of the land and neighbouring land are minimised, together with those to controlled waters, property and ecological systems, and to ensure that the development can be carried out safely without unacceptable risks to human health and offsite receptors. Information on how to comply with conditions and what is expected of developers can be found in the Shropshire Council's Contaminated Land Strategy 2013 in Appendix 5. The following link takes you to this document:

<http://shropshire.gov.uk/committeeservices/Data/Council/20130926/Agenda/18%20Contaminated%20Land%20Strategy%20-%20Appendix.pdf>

8. No development shall take place until a scheme of foul drainage, and surface water drainage has been submitted to and approved in writing by the Local Planning Authority. The approved scheme shall be fully implemented before the development is occupied/brought into use (whichever is the sooner).

Reason: The condition is a pre-commencement condition to ensure satisfactory drainage of the site and to avoid flooding.

9. Prior to the first occupation of the development the parking, turning, loading, and unloading shall be laid out and surfaced and thereafter be kept clear and always maintained for that purpose.

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

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

10. A three metre high acoustic barrier, of at least 10kg/m<sup>2</sup> in density, shall be constructed along the boundary between the garage and the residential development as indicated on the Phasing Plan showing POS (drawing 5697-201D). The barrier

shall be completed prior to the first occupation of the development and shall thereafter be permanently retained.

Reason: To protect residents from any detrimental noise impact from the neighbouring commercial use.

11. Before any other operations are commenced, the approved vehicular access and visibility splays under consent reference 21/02241/FUL, shall be provided and constructed to base course level and completed to an appropriate standard as shown on the application drawings before the development is fully occupied and thereafter maintained. The area in advance of the sight lines shall be kept permanently clear of all obstructions.

Reason: To ensure that the development should not prejudice the free flow of traffic and conditions of safety on the highway nor cause inconvenience to other highway users.

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

- A minimum of 5 external woodcrete bat boxes or integrated bat bricks, suitable for nursery or summer roosting for small crevice dwelling bat species.

- A minimum of 5 artificial nests, of either integrated brick design or external box design, suitable for starlings (42mm hole, starling specific), sparrows (32mm hole, terrace design), swifts (swift bricks or boxes) and/or house martins (house martin nesting cups). The boxes shall be sited in suitable locations, with a clear flight path and where they will be unaffected by artificial lighting. The boxes shall thereafter be maintained for the lifetime of the development.

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

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

13. No development shall take place (including demolition, ground works and vegetation clearance) until a landscaping plan has been submitted to and approved in writing by the Local Planning Authority. The plan shall include:

a) Planting plans, creation of wildlife habitats and features and ecological enhancements (including the recommendations in the Preliminary Ecological Appraisal (PEA) Report (Pearce Environment, March 2021, hedgehog-friendly gravel boards and amphibian-friendly gully pots).

b) Written specifications for establishment of planting and habitat creation.

c) Schedules of plants/seed mixes, noting species (including scientific names), planting sizes and proposed numbers/densities where appropriate.

d) Implementation timetables.

Native species used are to be of local provenance (Shropshire or surrounding counties). The plan shall be carried out as approved.

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

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

14. Prior to the erection of any external lighting on the site, a lighting plan shall be submitted to and approved in writing by the Local Planning Authority. The lighting plan shall demonstrate that the proposed lighting will not impact upon ecological networks and/or sensitive features, e.g. bat and bird boxes, trees, and hedgerows. The submitted scheme shall be designed to take into account the advice on lighting set out in the Bat Conservation Trust's Guidance Note 08/18 Bats and artificial lighting in the UK. The development shall be carried out strictly in accordance with the approved details and thereafter retained for the lifetime of the development.  
Reason: To minimise disturbance to bats, which are European Protected Species.

# Agenda Item 6

## AGENDA ITEM



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| Committee and date |
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| - | Proposed Residential Development Land North Of |
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### Development Management Report

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

#### Summary of Application

|  |                |                                 |
|--|----------------|---------------------------------|
| <b>Application Number:</b> 22/01619/FUL  | <b>Parish:</b> | Bayston Hill                    |
| <b>Proposal:</b> Erection of 2No. detached dwellings and associated garages, formation of vehicular and pedestrian access (revised scheme) |                |                                 |
| <b>Site Address:</b> Proposed Residential Development Land North East Of Grove Lane Bayston Hill Shrewsbury Shropshire                     |                |                                 |
| <b>Applicant:</b> Mr T Foster  |                |                                 |
| <b>Case Officer:</b> Didi Kizito   | <b>email</b>   | : didi.kizito@shropshire.gov.uk |

**Grid Ref:** 348085 - 308346

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

### **REPORT**

#### **1.0 THE PROPOSAL**

- 1.1 This application is made in 'full' and seeks planning permission for the Erection of 2No. detached dwellings and associated garages, formation of vehicular and pedestrian access.
- 1.2 The scheme is a resubmission of a previous application that sought the erection of 3 residential units.
- 1.3 During the course of this application, amended plans have been received retaining the existing hedgerow and stone wall along the pedestrian path. Additionally, the existing garage serving no 10 is to be scaled down in size.

#### **2.0 SITE LOCATION/DESCRIPTION**

- 2.1 The proposed site is occupied by 2 existing dwellings with large gardens and garaging. The total site area is under 0.5 hectare.

No 10 Grove Lane is considered a non-designated heritage asset while no. 9, a bungalow, appears likely to have been built in its garden – there is no apparent planning history for no. 9 but it has been on site since at least 1999.

The application site comprise residential garden curtilage within the settlement of Bayston Hill.

Vehicular access to the site is from Grove Lane which has a junction with Lyth Hill Road to the south east. There is a small stream on the south eastern boundary of the application site.

A public footpath extends along the western boundary of the application site from Grove Lane.

There are rear gardens to single storey and two storey properties on Yew Tree Drive running along the northern boundary to the plot, and rear garden boundaries to 2 storey properties on Eric Lock Road and Edge Close run around the eastern and southern boundary, with the boundary to the south east corner alongside the access road adjacent to no. 8 Grove Lane and its garden, and the front boundary fronting Grove Lane which is a residential road.

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

- 3.1 The Parish Council have provided views contrary to the Officers recommendation. The application was discussed with the Chair/Vice Chair of Planning Committee, in consultation with the Principal Planner, and it was concluded that a committee determination should be pursued as it was considered the Parish Council has

## AGENDA ITEM

raised material considerations which make the application worthy of Committee consideration.

### 4.0 Community Representations

#### Consultee Comment

##### 4.1 Bayston Hill Parish Council:

OBJECT – The committee noted that comments regarding height of the properties had been amended. Previous objections still apply.

Surface Water drainage – there is concern made by residents of neighbouring properties over a natural spring in the vicinity of the site which may be affected by the removal of green area which is part of the natural land drainage currently in place. Would the Planning Officer pay particular attention to the submitted plans relating to the surface water drainage scheme and that all policies under SuDS are followed ?

Protection of Ecology & affected Hedges/Trees – there is concern made by residents of neighbouring properties over potential harm this development could bring about, during construction and more long term once the development is complete. Would the Planning Officer offer some mitigations, e.g. habitat protection measures, bat boxes installed, trees planted to replace any that are lost as the site is built on.

Site Access – there is concern made by residents of neighbouring properties over current issues encountered by larger vehicles using Grove Lane. Please consider conditions to minimise disruption while construction is underway and when complete that emergency services vehicles as well as refuse collection reach all properties unhindered.

In addition to these objections the application does not pass BHPC Planning Policy "We oppose properties being built in gardens as we believe that this undermines the character of the Village as well as encroaching on Environmental corridors. Environmental corridors are complex ecosystems that provide an avenue for wildlife movement, protection of natural resources, and green space buffers for humans"

##### 4.2 SC Ecology:

Recommendation:

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

I have reviewed the Ecological Appraisal (Greenscape Environmental, October 2020) and plans submitted in association with the application.

The ecology survey carried out on the three buildings on site found no signs of bats or potential for roosting bats within the buildings and no further surveys were recommended.

In the event a bat is found during works, works must stop and Natural England or a licensed ecologist must be contacted for advice on how to proceed.

One oak tree has potential for roosting bats, however it is understood that this tree is to be retained. Should any works to this tree be required in the future (e.g. felling, lopping, crowning, trimming) then this will have to be preceded by a bat survey to determine whether any bat roosts are present and whether a Natural England European Protected Species Licence is required to lawfully carry out the works.

Sightings of badgers within the immediate surrounds of the development have been noted, however no evidence of badger activity was identified on site during the survey. Notwithstanding this, badgers are a highly mobile species and a pre-commencement

## AGENDA ITEM

badger survey should be carried out prior to works commencing.

It has been noted that a stream is located adjacent to the site. This is unlikely to support great crested newts due to its inherent flow. The presence of common amphibian species have been noted.

The Ecological Appraisal identified the removal of several trees and a small section of species-poor privet hedgerow which is to be removed for access. The hedgerows mark the boundaries of private gardens, and so are not protected by the Hedgerows Regulations 1997.

The site is considered suitable for hedgehogs and records have been noted from the neighbouring dwellings.

To protect the watercourse, trees, hedgerows and wildlife during the works, a Construction Environmental Management Plan should be prepared prior to works commencing.

Vegetation removal and removal of the buildings have the potential to impact nesting birds and therefore removal works must be done outside of the bird nesting season.

Gaps will be provided in gravel boards to ensure continued commuting and foraging for small animals, including hedgehogs and amphibians.

SC Ecology require biodiversity net gains at the site in accordance with the NPPF and CS17. The provision of tree planting and installation of bird and bat boxes and a hedgehog box will provide replacement and additional roosting and nesting habitat.

Any external lighting to be installed on the buildings should be kept to a minimum to ensure that animals can continue to forage and commute around the surrounding area.

I recommend that the following conditions and informatives are included on the decision notice:

### Badgers – pre-commencement survey condition

Within 28 days prior to the commencement of development, a badger inspection shall be undertaken by an appropriately qualified and experienced ecologist and the outcome reported in writing to the Local Planning Authority. If new evidence of badgers is recorded during the pre-commencement survey then the ecologist shall submit a mitigation strategy for prior approval that sets out appropriate actions to be taken during the works. These measures will be implemented as approved.

Reason: To ensure the protection of badgers under the Protection of Badgers Act 1992.

### Landscaping Plan condition

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

- a) Planting plans, creation of wildlife habitats and features and ecological enhancements (e.g. hibernacula, bat and bird boxes and amphibian-friendly gully pots);
- b) Where fences are to be used, these should contain gaps at their bases (e.g. hedgehog-friendly gravel boards) to allow wildlife to move freely;
- c) Details of trees and hedgerows to be retained and measures to protect these from damage during and after construction works;
- d) Written specifications (including cultivation and other operations associated with plant, grass and wildlife habitat establishment);
- e) Access layout and visibility splay in line with Highways requirements in order to demonstrate their compatibility with the retention of existing trees and hedges, or measures to replant or translocate hedges behind the visibility splay if required;
- f) Schedules of plants, noting species (including scientific names), planting sizes and proposed numbers/densities where appropriate;
- g) Native species used are to be of local provenance (Shropshire or surrounding counties);
- h) Implementation timetables.

The plan shall be carried out as approved. Any trees or shrubs which die or become seriously damaged or diseased within five years of completion of the development shall be



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replaced within 12 calendar months with trees of the same size and species.

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

Construction Environmental Management Plan condition

No development shall take place (including demolition, ground works and vegetation clearance) until a Construction Environmental Management Plan has been submitted to and approved in writing by the Local Planning Authority. The plan shall include:

a) An appropriately scaled plan showing 'Wildlife/Habitat Protection Zones' where construction activities are restricted, where protective measures will be installed or implemented and where ecological enhancements will be installed or implemented;

b) Details of protective measures (both physical measures and sensitive working practices) to avoid impacts during construction;

c) Requirements and proposals for any site lighting required during the construction phase;

d) A timetable to show phasing of construction activities to avoid harm to biodiversity features (e.g. avoiding the bird nesting season);

e) The times during construction when an ecological clerk of works needs to be present on site to oversee works;

f) Identification of Persons responsible for:

i) Compliance with legal consents relating to nature conservation;

ii) Compliance with planning conditions relating to nature conservation;

iii) Installation of physical protection measures during construction;

iv) Implementation of sensitive working practices during construction;

v) Regular inspection and maintenance of physical protection measures and monitoring of working practices during construction; and

vi) Provision of training and information about the importance of 'Wildlife Protection Zones' to all construction personnel on site.

g) Pollution prevention measures.

All construction activities shall be implemented strictly in accordance with the approved plan.

Reason: To protect features of recognised nature conservation importance, in accordance with MD12, CS17 and section 175 of the NPPF.

Bat, bird and hedgehog boxes condition

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

- A minimum of 2 external woodcrete bat boxes or integrated bat bricks, suitable for nursery or summer roosting for small crevice dwelling bat species.

- A minimum of 2 artificial nests, of either integrated brick design or external box design, suitable for swifts (swift bricks or boxes).

- A minimum of 2 artificial nests, of either integrated brick design or external box design, suitable for starlings (42mm hole, starling specific).

- A minimum of 2 artificial nests, of either integrated brick design or external box design, suitable for sparrows (32mm hole, terrace design)

- A minimum of 2 artificial nests, of either integrated brick design or external box design, suitable for small birds (32mm hole, standard design)

- A minimum of 1 artificial hedgehog box, suitable for breeding and/or hibernating hedgehogs.

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

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

### Lighting Plan condition

Prior to the erection of any external lighting on the site, a lighting plan shall be submitted to and approved in writing by the Local Planning Authority.

The lighting plan shall demonstrate that the proposed lighting will not impact upon ecological networks and/or sensitive features, e.g. bat and bird boxes, trees, and hedgerows. The submitted scheme shall be designed to take into account the advice on lighting set out in the Bat Conservation Trust's Guidance Note 08/18 Bats and artificial lighting in the UK. The development shall be carried out strictly in accordance with the approved details and thereafter retained for the lifetime of the development.

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

### 4.3 SC Archaeology:

Objectors to the previous 3 unit scheme for this site (planning application reference 21/02071/FUL) provided information which indicates that the northern boundary of the proposed development site comprises part of a more extensive historic boundary. Previously utilised by the ancient boundary between the parishes of Conover and St Julian's (Pulley Township), the information provided indicates that it may have originated as an early routeway, bounded on at least one side by a bank and ditch, named in early documents as the Old Foss. From the beginning of the 14th century this feature was also used to demarcate the boundary of the Forest of Lythwood.

No signs of the boundary bank/ hedge bank visible on the northern side of this boundary, were observed extending southwards from beneath the hedge into the proposed development site during a site visit on the 29 September 2021. However, there is some potential for below ground remains associated with this ancient boundary to survive adjacent to the northern boundary of the proposed development site. Any such remains would be of local level significance but could be impacted by the construction of the garage for Plot 1 and the proposed access drive and driveway for Plot 2.

### RECOMMENDATION:

In view of the above, and in line with MD13 of the Local Plan and Paragraph 205 of the NPPF (July 2021), it is advised that a programme of archaeological work should be made a condition of any planning permission for the proposed development. This should comprise a watching brief during the soil stripping/ ground works adjacent to the northern boundary for the garage for Plot 1 and the access driveway to Plot 2. An appropriate condition of any such consent would be: -

### Suggested Conditions:

No development approved by this permission shall commence until the applicant 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 Local Planning Authority prior to the commencement of works.

Reason: The site is known to hold archaeological interest.

### 4.4 SC SUDS:

#### 1. Condition:

No development shall take place until a scheme of surface and foul water drainage has

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been submitted to and approved in writing by the Local Planning Authority. The approved scheme shall be fully implemented before the development is occupied/brought into use (whichever is the sooner).

Reason: The condition is a pre-commencement condition to ensure satisfactory drainage of the site and to avoid flooding.

### 2. Comment:

2.1. The Drainage Strategy is acceptable in principle but the Climate Change used should be 40%.

2.2. Surface water and foul drainage schemes for the development should be designed and constructed in accordance with the Council's SUDS Handbook which is available in the Related Documents Section on the Council's Website at: <https://shropshire.gov.uk/drainage-and-flooding/development-responsibility-and-maintenance/sustainable-drainage-systems-handbook/>

2.3. Appendix A2 - Surface Water Drainage Proforma for Minor Developments must be completed and together with associated drainage details, must submitted for approval.

### 4.5 Severn Trent Water:

With Reference to the above planning application the company's observations regarding sewerage are as follows.

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

Severn Trent Water advise that there may be a public sewer located within the application site. Although our statutory sewer records do not show any public sewers within the area you have specified, there may be sewers that have been recently adopted under the Transfer Of Sewer Regulations 2011. Public sewers have statutory protection and may not be built close to, directly over or be diverted without consent and contact must be made with Severn Trent Water to discuss the proposals. Severn Trent will seek to assist in obtaining a solution which protects both the public sewer and the building.

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

### 4.6 SC Conservation:

The site subject to the proposal is not within a conservation area and is surrounded by a mixture of dwelling types though is located within the garden of 10 Grove Lane which is considered to be a non-designated heritage asset. An historic impact assessment has been submitted which confirms this, albeit there has been some alteration to the building. It is proposed to be retained, though with a large single dwelling and garage proposed in part of its garden. A pair of early 20th century semi-detached properties are also located to the south of the plot.

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In considering the proposal, due regard to the following policies and guidance has been taken, when applicable: CS6 (Sustainable Design and Development) and CS17 (Environmental Networks), SC SAMDEV policies MD2 (Sustainable Design), MD13 (The Historic Environment), and the National Planning Policy Framework (NPPF).

In general it is noted that the proposal as a whole does appear as a rather contrived form of backland development with the snaked access running through the existing built development and to gain access right to the back of the site. This still appears somewhat at odds with the design, pattern and grain of this part of Grove Lane.

Whilst the comments in the HIA are acknowledged in respect of the wider setting of 10 Grove Lane changing over time, the proposed development will be within the curtilage of the property and directly behind the dwelling. In this regard a large prominent contemporary development is still considered to have an impact on the setting of the building, though the extent of any harmful impact would be determined by its siting, scale, design and materials etc.

We previously commented that the proposed properties were also overly large and of an executive style, which was incongruous with the largely low level properties within the vicinity. Whilst these have been reduced to dormer bungalows and the reduced scale is acknowledged, we would not concur with the statement The proposed dwellings are all of a traditional vernacular rather than taking cues from the bungalow to ensure they do not visually dominate and detract from the adjacent non-designated heritage asset. Detailing and appearance appears to be more contemporary than traditional, where the proposed glazed gables to front and rear appear overly dominant, and to the rear somewhat disproportionate. In this regard, further consideration of a more traditional design/scale, particularly to the frontages, may be beneficial, particularly in creating a less dominant frontage in respect of plot 1 given its proximity to the historic building.

It is also noted that it hasn't been brought back into the site any further, and the proposal could be further reduced in length and pushed back to provide an extra metre or so from the boundary with the historic dwelling, further minimising its impact.

Whilst the site is not within a conservation area, it is recommended that further consideration is given to the above points in terms of siting, design, scale and appearance where taking account of the above policies. Can garage plans also be submitted?

There is reference to trees/hedge removal where we would recommend that the comments of the trees officer and archaeologist are taken account of in this regard.

### 4.7 **SC Regulatory Services:**

Having considered the application it is noted that the site is within a Coal Mining Reporting Area (as defined by the Coal Authority).

The presence of a development over coal workings or areas of non-coal mining, does not necessarily mean that there are risks due to gas emissions. There are specific circumstances when mine gas can pose a significant risk (acute or chronic) to development. It is therefore important that these risks are assessed by undertaking a Mine Gas Risk Assessment.

For all new development located within the defined coal mining areas (i.e., Development Low Risk Areas and Development High Risk Areas), the Local Planning Authority will require a Mine Gas Risk Assessment (MGRA) to be undertaken by competent, qualified

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and experienced mine gas risk assessors, in accordance with current guidance and industry best practice e.g., Environment Agency (EA) 'Land Contamination Risk Management (LCRM)' guidance and CL:AIRE, 2021 'Good Practice for Risk Assessment for Coal Mine Gas Emissions' (ISBN 978-1-905046-39-3). Competence must be demonstrated in accordance with current guidance and industry best practice.

Accordingly, as the proposed development site is located in a Development Low Risk Area, Environmental Protection recommends that the following is included as Conditions if permission is granted.

### Mine Gas Risk Assessment

a) No development, with the exception of demolition works where this is for the reason of making areas of the site available for site investigation, shall take place until a mine gas risk assessment has been undertaken to assess the potential for mine gases to exist on the site. The mine gas risk assessment shall be undertaken by a competent person as defined in the National Planning Policy Framework and conducted in accordance with 'CL:AIRE - Good Practice for Risk Assessment for Coal Mine Gas Emissions; October 2021' and having regard to current Environment Agency guidance 'Land Contamination: Risk Management (LCRM; 2020)'. The Report is to be submitted to and approved in writing by the Local Planning Authority before development commences.

b) In the event of the mine gas risk assessment finding the site to be affected by mine gases a further report detailing a Remediation Strategy shall be submitted to and approved in writing by the Local Planning Authority. The Remediation Strategy must have regard to current guidance and standards and ensure that the site will not qualify as contaminated land under Part 2A of the Environmental Protection Act 1990 in relation to the intended use of the land after remediation.

c) The works detailed as being necessary to make safe the mine gases shall be carried out in accordance with the approved Remediation Strategy.

d) In the event that further contamination is found at any time when carrying out the approved development that was not previously identified it must be reported in writing immediately to the Local Planning Authority. An investigation and risk assessment, and where remediation is necessary a remediation scheme must be prepared in accordance with the requirements of the Environment Agency guidance 'Land Contamination: Risk Management (LCRM; 2020)', which is subject to the approval in writing by the Local Planning Authority.

e) Following completion of measures identified in the approved remediation scheme a Verification Report shall be submitted to and approved in writing by the Local Planning Authority that demonstrates the risks from mine gases and any contamination identified has been made safe, and the land no longer qualifies as contaminated land under Part 2A of the Environmental Protection Act 1990 in relation to the intended use of the land. Verification must be in accordance with current guidance and standards.

Reason: To ensure that risks from potential mine gases to the future users of the land, property and neighbouring land are minimised, and to ensure that the development can be carried out safely without unacceptable risks to human health and offsite receptors.

## 4.8 SC Trees

Recommend amendments to the scheme.

There are a number of trees on this site. An Arboricultural Impact Assessment has been submitted with the application to demonstrate the impact of the development on existing

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trees, hedges and shrubs and to justify and mitigate any losses that may occur.

The AIA has been prepared in accordance with BS 5837 (2012) and includes an assessment and categorisation of the tree based on their current and potential public amenity value. This categorisation forms the basis for how much weight should be put on the loss of a particular tree and helps to inform the site layout and design process. I have reviewed the categories allocated to the trees and, having undertaken a site visit and assessed the trees in accordance with the criteria set out in table 1 of BS 5837: 2012, would agree that these are appropriate.

The AIA has identified 24 individual trees and 3 groups of trees on the site and notes that the proposed development would require the removal of 14 category C trees and 2 category C groups. The AIA considers that there would be little harm to the wider public amenity of the area resulting from the loss of these trees and that there is ample space to provide compensatory planting.

There is also potential for damage to a category B yew tree (Ye2) resulting from the construction of the proposed access driveway, although the AIA considers that this can be limited through the use of specialist CCS construction technique. Whereas it is accepted that this method can be used in certain circumstances, no site-specific detail has been provided and its viability would need to be verified.

Having assessed the site I would consider that the majority of the trees, although visible from the surrounding properties, are not particularly prominent in the wider landscape and convey no special character to the site or wider area, outside of that which would be associated with a mature residential garden. The exception being the category B trees, which are more substantial elements of the landscape. However, the loss of 14 trees and 2 groups of trees is not insignificant and, whilst I would agree that the overall impact to public amenity is limited, there would be some negative effects at the very local level. Although the AIA references compensatory planting to ensure the long-term sustainability of tree cover post development, the level of planting detail is very limited and it is not possible to assess if the proposed planting is satisfactory to compensate for the loss of trees on the site.

Further, where the majority of the retained trees are a sufficient distance from the proposed dwellings so as not to exert a significant negative impact on them or interfere with residential amenity, this is not the case for one category B yew tree (Ye11), which is very close to the northeast of plot one. There appears to be encroachment into the RPA and crown spread of the tree and it is reasonable to consider that significant pruning would be required to allow for the construction of the property and for future maintenance. It is my view that the long-term retention of this tree in this location would not be practical and therefore it must be considered that the tree would be lost as a result of the development. This would have a significant impact on public amenity, which has not been considered in the report and it is not clear how this would be mitigated or compensated for.

Finally, there is a hedgerow running along part of the north boundary which does not appear to be included in the AIA report. Although this is essentially a garden hedgerow and therefore not subject to the hedgerow regulations, it is none the less an important feature of the site. It would appear possible to retain and protect this hedgerow under the proposed scheme.

In conclusion, whereas it appears that it is possible to develop the site to provide two dwellings, the above points need to be addressed and it is recommended that plot one be altered to better accommodate the retained yew tree (Ye11), full details of the 'no dig' CCS access drive be provided and verified, the boundary hedgerow be assessed and incorporated into the scheme and a planting scheme be provided that is prepared in accordance with BS 8545: 2014 Trees: from nursery to independence in the landscape –

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Recommendations and considers the following:-

Policy and Strategy – setting out planting objectives and desired outcomes for the scheme  
Site Evaluation and Constraints Assessment  
Species Selection – taking into account the above  
Nursery Production and Procurement – type of planting stock to be used given the objectives and site constraints  
Handling and Storage  
Planting – including site preparation  
Post Planting Management and maintenance

If planning permission is to be granted to this proposal the following conditions are recommended:

Conditions

In this condition 'retained tree' means an existing tree, large shrub or hedge which is to be retained in accordance with the approved plans and particulars; or any tree, shrub or hedge plant planted as a replacement for any 'retained tree'. Paragraph a) shall have effect until expiration of 5 years from the date of completion of the work.

a) No existing tree shall be wilfully damaged or destroyed, uprooted, felled, lopped, topped or cut back in any way other than in accordance with the approved plans and particulars, without the prior written approval of the Local Planning Authority. Any approved tree surgery works shall be carried out in accordance with British Standard BS 3998: 2010 - Tree Work, or its current equivalent.

b) No works associated with the development permitted will commence and no equipment, machinery or materials will be brought onto the site for the purposes of said development until a Tree Protection Plan and Arboricultural Method Statement prepared in accordance with and meeting the minimum tree protection requirements recommended in BS5837: 2012 or its current equivalent have been submitted and approved in writing by the Local Planning Authority. All tree protection measures detailed in the approved Tree Protection Plan and Arboricultural Method Statement must be fully implemented as approved before any equipment, machinery or materials are brought onto the site for the purposes of the development. All approved tree protection measures must be maintained throughout the development until all equipment, machinery and surplus materials have been removed from the site. Nothing shall be stored or placed in any area fenced in accordance with this condition and the ground levels within those areas shall not be altered nor any excavation be made, without the prior written consent of the Local Planning Authority.

c) No works associated with the development permitted will commence and no equipment, machinery or materials will be brought onto the site for the purposes of said development until a method statement providing details of tree protection measures to be implemented during the installation of the driveway has been submitted and approved by the Local Planning Authority. This method statement must make provision for supervision of these works by the applicant's arboriculturist or other competent person, as agreed in writing by the Local Planning Authority.

d) All services will be routed outside the Root Protection Areas indication on the TPP or, where this is not possible, a detail method statement and task specific tree protection plan will be submitted and approved in writing by the Local Planning Authority prior to any work commencing.

e) No works associated with the development permitted will commence and no equipment, machinery or materials will be brought onto the site for the purposes of said development until a responsible person has been appointed for day to day supervision of the site and to ensure that the tree protection measures are fully complied with. The Local Planning

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Authority will be informed of the identity of said person.

Reason: To safeguard the amenities of the local area and to protect the natural features that contribute towards this and that are important to the appearance of the development.

No works associated with the development permitted will commence and no equipment, machinery or materials will be brought onto the site for the purposes of said development until a tree planting scheme, prepared in accordance with of BS 8545: 2014 Trees: from nursery to independence in the landscape – Recommendations has been submitted and approved in writing by the Local Planning Authority.

Reason: To ensure that there is no nett loss of trees from the urban area and to provide natural landscape features that help to integrated the development into the local environment.

### 4.9 SC Highways:

Having viewed the revised Drawing SA37893\_H\_01\_B, I note the changes to retain the mature hedge and stone wall together with the reduction of the garage serving No.10 the shared drive, in order to facilitate the realignment of the shared private drive. Whilst I consider the details to be satisfactory, there appears to be a missed opportunity consider the movement of vehicle from No.10, which I understand is in the applicant's family ownership. During the site visit it was evident that parked vehicles at No.10 currently have to reverse back towards the proposed shared private drive and utilise that junction area to turn. The current proposal therefore provides the opportunity to improve this situation and would recommend that the applicant consider this aspect.

Recommend the following Conditions.

- Prior to the development hereby permitted being first occupied, the site access, internal access road, parking and turning arrangements shall be laid out in accordance with the approved plans and constructed in accordance with a specification to be first submitted to and approved in writing by the Local Planning Authority. Reason: To provide an adequate means of pedestrian and vehicular access to the existing and new dwellings.
- Prior to the commencement of development a Construction Traffic Management Plan (CTMP) shall be submitted to and approved in writing by the Local Planning Authority; the CTMP shall be fully implemented in accordance with the approved details for the duration of the construction period. Reason: In the interests of local amenity and highway and pedestrian safety having regard to the site constraints.

4.10 **SC Affordable Houses:** No comments

4.11 **SC Rights Of Way:** No comments

4.12 **Ramblers Association:** No comments

### 4.13 Public Comments

Comments have been received objecting to the proposal. In summary the following concerns were raised. Full details on letters of objection can be viewed online on the Council's application website.

- ecology issues
- publicity of the scheme
- highway impact
- drainage impact
- access for emergency and service vehicles
- inconsistency in plans and supporting information



- noise and pollution
- scale and design
- not affordable housing
- over looking, over bearing, loss off light impact
- loss of property values
- landscape impact
- historical interest
- impact on trees and hedgerow
- impact on water course
- contrary to policy as the settlement has exceeded its capacity.

### 5.0 THE MAIN ISSUES

- Policy considerations
- Siting, scale and design of structure
- Ecological matters
- Drainage matters
- Trees
- Residential amenity

### 6.0 OFFICER APPRAISAL

#### 6.1 Principle of development

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

6.1.2 A key objective of both national and local planning policies is to concentrate new residential development in 'sustainable' locations which are easily accessible and which offer a range of services and community facilities.

6.1.3 The Council's Type and Affordability of Housing Supplementary Planning Document (SPD) 2012 recognises that self-build properties can help to achieve mixed and balanced communities. Neither the Core Strategy nor the SAMDev policies explicitly refer to self-build housing. However, the relevant housing supply policies do allow, amongst other things, housing developments within areas that the Council consider to be suitable locations, i.e. settlements identified for growth. There is nothing preventing these single plot developments being for open market, self-build dwellings.

6.1.4 Comments have been received relating to the proposed development scheme being contrary to planning policies.

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- 6.1.5 Within the SAMDev Policy S16.2 (ii) Bayston Hill is a Community Hub with a housing guideline of around 50-60 additional dwellings over the period to 2026, where development by infilling, groups of houses and conversion of buildings may be acceptable on suitable sites within the development boundary identified on the Policies Map. The retention of the gap of undeveloped land between Bayston Hill and Meole Brace, Shrewsbury remains an important objective of the strategy for the village. The development of the village is also constrained by the presence of the A49 running through the village and the major quarry to the east. The provision of affordable housing has been identified by the Parish Council as a priority requirement.
- 6.1.6 Furthermore, Bayston Hill has a published Parish Council Planning Policy (2017) which is a material planning consideration and which indicates that it opposes properties being built in gardens as it undermines the character of the Village as well as encroaching on Environmental corridors.
- 6.1.7 While the above policy considerations are noted and in the previous application, within the Officer report and reason for refusal reference is made to a number of policies relating to the delivery and distribution of housing development across the Bayston Hill area. For certain, the Council is able to demonstrate a five-year housing supply. However, the policies indicate that housing figures are approximate guidelines and are intended to be flexible. The proposed development would provide two residential dwellings and would contribute to local housing delivery, mix and density in a Community Hub settlement area, identified as appropriate and sustainable for additional housing provision. The sites being within Bayston Hill means that they are within proximity to a range of services and facilities including a primary school and public transport connections.
- 6.1.8 The proposed development would contribute to the delivery of housing and is therefore consistent with Policies MD1 and MD3 of the SamDev Plan and CS1, CS3 and CS11 of the Core Strategy as they relate to housing delivery.
- 6.2 Siting, scale and design of structure
- 6.2.1 The proposal includes for two detached dwellings sited within individual curtilages with a shared driveway serving the two proposed dwellings and an existing bungalow. The scheme has been amended to omit a third new dwelling initially proposed with the previous application. While referred to as bungalows, the proposed dwellings are of a two storey nature utilising the roof space as first floor accommodation. The proposal also seeks brick build garages with clay roof tiles. The pitched roof garages serving the new dwellings would measure approximately 6.3m wide x 6m deep and have a maximum height of 4m.
- 6.2.2 SAMDev Policy MD2 (Sustainable Design) and Core Strategy Policy CS6 (Sustainable Design and Development Principles) requires development to protect and conserve the built environment and be appropriate in scale, density, pattern and design taking into account the local context and character and should also safeguard residential and local amenity. MD13 and CS17 seek to ensure that development protects and enhances the local character of the built and historic environment.

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- 6.2.3 The proposed dwellings would have gabled roof arrangements with Plot 1 comprising of 3 bedrooms and Plot 2 having 4 bedrooms. While similar in style and appearance, the internal layout and footprint slightly differ. Each buildings would have a ridge height of approximately 6.5m high. Together with glazed gables, the scheme incorporates a couple of dormers windows to the west elevations. Similarly, the east elevations are designed to include heavy glazing. The side elevations i.e. north and south are of more simplistic design consisting of rooflights on the first floor.
- 6.2.4 Due to the status of the no 10 being a non-designated heritage asset the conservation team were notified for their comments. It noted the team are not in support of the overall scale and design of the dwellings and have recommended some design alterations. It is acknowledged partly due to the heavy glazing, the proposed dwellings would have a different appearance to the neighbouring dwellings. However, due to being a backland development without any meaningful relationship with the street scene, on balance, it is not considered that such a contrasting appearance would appear out of place or significantly detrimental to the prevailing character and appearance of the area. Furthermore, it is also recognised that the surrounding dwellings are of varying styles and design and the proposal is not within the conservation area.
- 6.2.5 It is considered that the proposed dwellings will have adequate amenity space to the front and the rear. Although disproportionate to neighbouring properties gardens, Plot 1 would have adequate outdoor amenity space. Plot 2 has a larger degree of outdoor amenity space that is proportionate to the size of the dwelling and that of neighbouring properties. Whilst comments including those of the conservation team have made reference to the site being contrived, on balance it is considered that the size of the dwelling and the size of the plot would not result in the over development of the site or result in a cramped style of development that is out of keeping visually. Additionally, there is also a degree of separation distance, each elevation with neighbouring properties which allows for the hedgerow boundary to retained. For Plot 1, there would be approximately 26m distance between the proposed dwelling and no 10. The north elevation would range at an average distance of approximately 27m from dwellings 76, 78 and 80 Yewtree Drive. The dwelling proposes a pair of roof lights to this elevation.
- 6.2.6 The application shows that other than the hard surfacing of the drives and areas immediately around the properties, the garden will be laid to lawn. Currently there is a mature hedgerow which separates the plots from the neighbouring properties The submitted plans show that this hedge will be retained and additional planting is encouraged. Conditions are recommended to be imposed to ensure the hedge is retained.
- 6.2.7 Having regard to density, plot sizes and property separation distances it is considered that the proposed design and layout on balance is considered to be policy compliant in terms of the amenity impacts for existing and future residents.
- 6.3 Ecology matters
- 6.3.1 Several objections have been received relating to impact on the ecological

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surrounding and protected species. Whilst the comments have been noted, the SC Ecologist team accepts the findings of the ecological report and is content with the development subject to the planning conditions recommended. It is also confirmed that the proposal provides an ecological gain by way of the mitigation measures proposed in terms of the provision of bird and bat boxes.

### 6.4 Highway matters

- 6.4.1 The site is accessed via an existing lane off Grove Lane. The lane currently serves 2 dwellings and would end up serving a total of 4 dwellings. It is unlikely that this development would add to the existing highway conditions to a level that is considered unacceptable, that would result in harm to highway safety and highway users. In addition, it is worth noting Grove Lane is a cul de sac with no through road thus, the scheme would not result to any material harm to highway safety to road users to warrant a refusal. Furthermore, being a heavily residential street on a somewhat narrow lane, vehicle entering and leaving are likely to be at a low speed, therefore allowing drivers sufficient time to react to any unexpected potential conflict with other road users/pedestrians.
- 6.4.2 Whilst two additional dwellings will increase the number of vehicles entering and existing the site and using the highways network within the locality, given that Bayston Hill is identified as a sustainable settlement where appropriate development can be supported, the level of increase caused by such a small scale development is unlikely to be discernible. Resultantly, the parking provision proposed is considered to be proportionate to the formation of two additional dwellings, the turning space is sufficient for domestic vehicles and there will be no negative change in the public highways network usage or layout on account of the development proposed.
- 6.4.3 The Highway team have been consulted and raise no material objection. However, the team advised the removal of the outbuilding serving no 10 indicating a missed opportunity to improve vehicle movement and manoeuvring within the site. It is noted with the submitted plans, while the outbuilding has not been removed, its size has been reduced. Overall, the proposal would not have any significantly harmful effect on highway safety. As such, it would comply with Policy CS6 which seeks to ensure that all development is safe and accessible to highway users.
- 6.4.4 Although consulted on this current application, no comments have been received from Shropshire Fire and Rescue Service. However, the comments submitted in the previous application cannot be ignored. The comments provided stated that it is likely that fire appliances would not be able to access the development but that this is a matter which would be regulated under the Building Control process. Therefore, as a separate remit, should the application be approved, under different regulations, the scheme would have to meet and be compliant with building control regulations which is different from planning control. Additionally, the applicant is made aware as stated within the Shropshire Fire and Rescue Services guidance that failure to provide reasonable facilities for Fire Services would result in not receiving a completion certificate under Building Regulations.

### 6.5 Drainage

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- 6.5.1 Several of the objections received, including that of the Parish Council, refer to surface water, drainage and flooding implications of the scheme. SC SUDS officers have raised no objections to the application on this basis, but have requested that the details of surface water drainage and foul drainage be agreed and approved by the Local Planning Authority prior to commencement of any works on site. Severn Trent have provided comments indicating they do not object to the scheme and provide advise in relating to the sewers.
- 6.5.2 The application indicates that foul water drainage will be directed to the existing foul mains which is the preferred option and allows the foul water to be dealt with in an effective and sustainable manner. The applicant would need to apply to Severn Trent Water who it is within their remit to assess the connection requirements and confirm that the existing network has capacity for the proposed connections. In addition, the application indicates that surface water will be disposed of via soakaways and the drainage team have raised no objection to this.
- 6.5.3 No concerns have been raised regarding the suitability of the local ground conditions. The proposal is for an additional two dwellings within the locality and this number is not considered to exacerbate on drainage and foul disposal to warrant a refusal of the proposed scheme. Therefore it is recommend that both the foul and surface water drainage are conditioned accordingly for details to be submitted and approved prior to the commencement of works on site.
- 6.5.4 The proposal is for an additional two dwellings within the locality and this number is not considered to exacerbate on drainage and foul disposal to warrant a refusal of the proposed scheme. In addition, Severn Trent have provided comments indicating they do not object to the scheme and provide advise in relating to the sewers.
- 6.5.5 Furthermore, while it is noted within the objections regarding flooding matters, as the development site is no greater than 1ha and also not within an identified flood risk area, the request for a flood risk assessment is not considered necessary in this instance.
- 6.5.6 Concerns relating to impact on the watercourse are acknowledged and as suggested by the ecology team in order to protect the watercourse it is suggested a Construction Environmental Management Plan be prepared prior to works commencing.
- 6.6 Trees
- 6.6.1 Similarly, concern have been raised with regards to the loss of trees or future pressure for the loss of trees on site. The proposed site plan indicates that there will be some trees and hedges retained within the development site and those that are to be removed have been detailed within Aboricultural Report and Tree Protection plan thereby complying with CS17 and MD12 of the development plan.
- 6.6.2 The SC Trees consultee has confirmed that there is the potential of damage to a Yew tree as a result of the construction of the drive. The AIA indicates that damage to this can be mitigated through the use of specialist no dig construction technique and whilst specification of the method has not been provided at this stage, this can

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be controlled by way of condition. The Tree officer has also raised concern on the yew tree (Ye11) adjacent to Plot 1 where it is highlighted the scheme is likely to impact on this tree and it is the officer's view that the tree is unlikely to be retained in the its long term. Consequently, the tree team have proposed alteration to the layout of Plot 1.

6.6.3 Nevertheless, although not fully opposed nor supportive to the scheme, the Tree Officer has recommended conditions to be attached. Therefore, subject to conditions and protection during construction stage the proposed removal of trees and approach for those to be retained is acceptable. It should also be noted that a condition regarding the landscaping and boundary treatments to be imposed will further ensure trees are retained and protected and new planting implemented.

6.7 Archaeological matters

6.7.1 Comments in reference to archaeological issues are noted and the archaeology team raise no objection and suitably worded condition has been provided.

6.8 Residential amenity

6.8.1 Whilst the proposed development would create a new focus for domestic activity, given the distances to nearest residential dwellings and length of the adjacent garden areas, any effects in terms of noise, disturbance or lighting would be consistent with that of existing activity in this heavily residential area.

6.8.2 The distance together with existing hedging to be retained between the proposed plots and neighbouring dwellings would also limit effects with regard to outlook. Although any dwelling would be partially visible from neighbouring dwellings and garden areas above the existing hedges, or alternative boundary treatments, the intervening distances and orientation of the dwellings are an alleviating factors.

6.8.3 Although an effect of the proposed development would result to significantly reducing the garden area available to residents of no 10, the remaining garden would still retain a single area of enclosed private amenity space and parking spaces afforded to the existing dwelling no 10. The outdoor amenity space would be sufficient to maintain a suitable standard of living conditions for current or future occupiers of that property with respect to private outdoor amenity space provision.

6.8.4 It is therefore concluded that the effect of the proposed development on the living conditions of nearby residents would be acceptable in principle and therefore consistent with the aims of Policy CS6 of the CS as it relates to safeguarding the living conditions of local residents.

## 7.0 CONCLUSION

Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires that applications for planning permission be determined in accordance with the development plan, unless material considerations indicate otherwise.

The proposed site falls within the development boundary of Bayston Hill and therefore the principle for residential development is acceptable. The proposed dwellings are in a sustainable location accessible to services and facilities. On

## **AGENDA ITEM**

balance, the scheme is of a suitable layout and design that would not have a detrimental impact on neighbouring properties. The development is designed to provide safe means of access to the highway, a suitable foul and sewer drainage network whilst maintaining a level of ecological gain.

### **8.0 Risk Assessment and Opportunities Appraisal**

#### **8.1 Risk Management**

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

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

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

#### **8.2 Human Rights**

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

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

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

#### **8.3 Equalities**

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

## 9.0 Financial Implications

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

## 10. Background

### Relevant Planning Policies

Central Government Guidance:

West Midlands Regional Spatial Strategy Policies:

Core Strategy and Saved Policies:

CS1 - Strategic Approach  
CS6 - Sustainable Design and Development Principles  
CS2 - Shrewsbury Development Strategy  
CS17 - Environmental Networks  
MD2 - Sustainable Design  
CS18 - Sustainable Water Management  
MD12 - Natural Environment  
MD13 - Historic Environment

### RELEVANT PLANNING HISTORY:

21/02071/FUL Erection of 3No dwellings and associated garages, formation of vehicular and pedestrian access REFUSE 6th January 2022  
22/01619/FUL Erection of 2No. detached dwellings and associated garages, formation of vehicular and pedestrian access (revised scheme) PDE  
PREAPP/20/00182 Erection of 3no. detached dwellings PREAMD 15th June 2020  
21/02071/FUL Erection of 3No dwellings and associated garages, formation of vehicular and pedestrian access REFUSE 6th January 2022  
22/01619/FUL Erection of 2No. detached dwellings and associated garages, formation of vehicular and pedestrian access (revised scheme) PDE

## 11. Additional Information

View details online:



## AGENDA ITEM

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

Cabinet Member (Portfolio Holder)  
Councillor Ed Potter

Local Member

Cllr Ted Clarke

Cllr Tony Parsons  
Cllr Rosemary Dartnall

Appendices  
APPENDIX 1 - Conditions

## APPENDIX 1

### Conditions

#### STANDARD CONDITION(S)

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

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

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

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

3. In this condition 'retained tree' means an existing tree, large shrub or hedge which is to be retained in accordance with the approved plans and particulars; or any tree, shrub or hedge plant planted as a replacement for any 'retained tree'. Paragraph a) shall have effect until expiration of 5 years from the date of completion of the work.

a) No existing tree shall be wilfully damaged or destroyed, uprooted, felled, lopped, topped or cut back in any way other than in accordance with the approved plans and particulars, without the prior written approval of the Local Planning Authority. Any approved tree surgery works shall be carried out in accordance with British Standard BS 3998: 2010 - Tree Work, or its current equivalent.

Reason: To safeguard the amenities of the local area and to protect the natural features that contribute towards this and that are important to the appearance of the development.

4. All services will be routed outside the Root Protection Areas indication on the TPP or, where this is not possible, a detail method statement and task specific tree protection plan will be submitted and approved in writing by the Local Planning Authority prior to any work commencing.

Reason: To safeguard the amenities of the local area and to protect the natural features that contribute towards this and that are important to the appearance of the development.

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

5. No works associated with the development permitted will commence and no equipment, machinery or materials will be brought onto the site for the purposes of said development until

## AGENDA ITEM

a Tree Protection Plan and Arboricultural Method Statement prepared in accordance with and meeting the minimum tree protection requirements recommended in BS5837: 2012 or its current equivalent have been submitted and approved in writing by the Local Planning Authority. All tree protection measures detailed in the approved Tree Protection Plan and Arboricultural Method Statement must be fully implemented as approved before any equipment, machinery or materials are brought onto the site for the purposes of the development. All approved tree protection measures must be maintained throughout the development until all equipment, machinery and surplus materials have been removed from the site. Nothing shall be stored or placed in any area fenced in accordance with this condition and the ground levels within those areas shall not be altered nor any excavation be made, without the prior written consent of the Local Planning Authority.

Reason: To safeguard the amenities of the local area and to protect the natural features that contribute towards this and that are important to the appearance of the development.

6. No works associated with the development permitted will commence and no equipment, machinery or materials will be brought onto the site for the purposes of said development until a responsible person has been appointed for day to day supervision of the site and to ensure that the tree protection measures are fully complied with. The Local Planning Authority will be informed of the identity of said person.

Reason: To safeguard the amenities of the local area and to protect the natural features that contribute towards this and that are important to the appearance of the development.

7. No works associated with the development permitted will commence and no equipment, machinery or materials will be brought onto the site for the purposes of said development until a method statement providing details of tree protection measures to be implemented during the installation of the driveway has been submitted and approved by the Local Planning Authority. This method statement must make provision for supervision of these works by the applicant's arboriculturist or other competent person, as agreed in writing by the Local Planning Authority.

Reason: To safeguard the amenities of the local area and to protect the natural features that contribute towards this and that are important to the appearance of the development.

8. No development shall take place (including demolition, ground works and vegetation clearance) until a landscaping plan has been submitted to and approved in writing by the Local Planning Authority. The plan shall include:

- a) Planting plans, creation of wildlife habitats and features and ecological enhancements (e.g. hibernacula, bat and bird boxes and amphibian-friendly gully pots);
- b) Where fences are to be used, these should contain gaps at their bases (e.g. hedgehog-friendly gravel boards) to allow wildlife to move freely;
- c) Details of trees and hedgerows to be retained and measures to protect these from damage during and after construction works;
- d) Written specifications (including cultivation and other operations associated with plant, grass and wildlife habitat establishment);
- e) Access layout and visibility splay in line with Highways requirements in order to demonstrate their compatibility with the retention of existing trees and hedges, or measures to replant or translocate hedges behind the visibility splay if required;
- f) Schedules of plants, noting species (including scientific names), planting sizes and proposed

## AGENDA ITEM

numbers/densities where appropriate;

g) Native species used are to be of local provenance (Shropshire or surrounding counties);

h) Implementation timetables.

The plan shall be carried out as approved. Any trees or shrubs which die or become seriously damaged or diseased within five years of completion of the development shall be replaced within 12 calendar months with trees of the same size and species.

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

9. No works associated with the development permitted will commence and no equipment, machinery or materials will be brought onto the site for the purposes of said development until a tree planting scheme, prepared in accordance with of BS 8545: 2014 Trees: from nursery to independence in the landscape - Recommendations has been submitted and approved in writing by the Local Planning Authority.

Reason: To ensure that there is no nett loss of trees from the urban area and to provide natural landscape features that help to integrated the development into the local environment.

10. Within 28 days prior to the commencement of development, a badger inspection shall be undertaken by an appropriately qualified and experienced ecologist and the outcome reported in writing to the Local Planning Authority. If new evidence of badgers is recorded during the pre-commencement survey then the ecologist shall submit a mitigation strategy for prior approval that sets out appropriate actions to be taken during the works. These measures will be implemented as approved.

Reason: To ensure the protection of badgers under the Protection of Badgers Act 1992.

11. No development approved by this permission shall commence until the applicant 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 Local Planning Authority prior to the commencement of works.

Reason: The site is known to hold archaeological interest.

12. Mine Gas Risk Assessment

a) No development, with the exception of demolition works where this is for the reason of making areas of the site available for site investigation, shall take place until a mine gas risk assessment has been undertaken to assess the potential for mine gases to exist on the site. The mine gas risk assessment shall be undertaken by a competent person as defined in the National Planning Policy Framework and conducted in accordance with 'CL:AIRE - Good Practice for Risk Assessment for Coal Mine Gas Emissions; October 2021' and having regard to current Environment Agency guidance 'Land Contamination: Risk Management (LCRM; 2020)'. The Report is to be submitted to and approved in writing by the Local Planning Authority before development commences.

b) In the event of the mine gas risk assessment finding the site to be affected by mine gases a further report detailing a Remediation Strategy shall be submitted to and approved in writing by the Local Planning Authority. The Remediation Strategy must have regard to current guidance

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and standards and ensure that the site will not qualify as contaminated land under Part 2A of the Environmental Protection Act 1990 in relation to the intended use of the land after remediation.

c) The works detailed as being necessary to make safe the mine gases shall be carried out in accordance with the approved Remediation Strategy.

d) In the event that further contamination is found at any time when carrying out the approved development that was not previously identified it must be reported in writing immediately to the Local Planning Authority. An investigation and risk assessment, and where remediation is necessary a remediation scheme must be prepared in accordance with the requirements of the Environment Agency guidance 'Land Contamination: Risk Management (LCRM; 2020), which is subject to the approval in writing by the Local Planning Authority.

e) Following completion of measures identified in the approved remediation scheme a Verification Report shall be submitted to and approved in writing by the Local Planning Authority that demonstrates the risks from mine gases and any contamination identified has been made safe, and the land no longer qualifies as contaminated land under Part 2A of the Environmental Protection Act 1990 in relation to the intended use of the land. Verification must be in accordance with current guidance and standards.

Reason: To ensure that risks from potential mine gases to the future users of the land, property and neighbouring land are minimised, and to ensure that the development can be carried out safely without unacceptable risks to human health and offsite receptors.

13. No development shall take place until details of the 'no dig' CCS access drive have been submitted to and approved in writing by the Local Planning Authority.

Reason: To ensure the development is satisfactory.

14. No development shall take place until a scheme of surface and foul water drainage has been submitted to and approved in writing by the Local Planning Authority. The approved scheme shall be fully implemented before the development is occupied/brought into use (whichever is the sooner).

Reason: The condition is a pre-commencement condition to ensure satisfactory drainage of the site and to avoid flooding.

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

Reason: In the interests of local amenity and highway and pedestrian safety having regard to the site constraints.

16. No development shall take place (including demolition, ground works and vegetation clearance) until a Construction Environmental Management Plan has been submitted to and approved in writing by the Local Planning Authority. The plan shall include:

a) An appropriately scaled plan showing 'Wildlife/Habitat Protection Zones' where construction

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activities are restricted, where protective measures will be installed or implemented and where ecological enhancements will be installed or implemented;

- b) Details of protective measures (both physical measures and sensitive working practices) to avoid impacts during construction;
- c) Requirements and proposals for any site lighting required during the construction phase;
- d) A timetable to show phasing of construction activities to avoid harm to biodiversity features (e.g. avoiding the bird nesting season);
- e) The times during construction when an ecological clerk of works needs to be present on site to oversee works;
- f) Identification of Persons responsible for:
  - i) Compliance with legal consents relating to nature conservation;
  - ii) Compliance with planning conditions relating to nature conservation;
  - iii) Installation of physical protection measures during construction;
  - iv) Implementation of sensitive working practices during construction;
  - v) Regular inspection and maintenance of physical protection measures and monitoring of working practices during construction; and
  - vi) Provision of training and information about the importance of 'Wildlife Protection Zones' to all construction personnel on site.
- g) Pollution prevention measures.

All construction activities shall be implemented strictly in accordance with the approved plan. Reason: To protect features of recognised nature conservation importance, in accordance with MD12, CS17 and section 175 of the NPPF.

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

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

- A minimum of 2 external woodcrete bat boxes or integrated bat bricks, suitable for nursery or summer roosting for small crevice dwelling bat species.
- A minimum of 2 artificial nests, of either integrated brick design or external box design, suitable for swifts (swift bricks or boxes).
- A minimum of 2 artificial nests, of either integrated brick design or external box design, suitable for starlings (42mm hole, starling specific).
- A minimum of 2 artificial nests, of either integrated brick design or external box design, suitable for sparrows (32mm hole, terrace design)
- A minimum of 2 artificial nests, of either integrated brick design or external box design, suitable for small birds (32mm hole, standard design)
- A minimum of 1 artificial hedgehog box, suitable for breeding and/or hibernating hedgehogs.

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

## **AGENDA ITEM**

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

18. Prior to the erection of any external lighting on the site, a lighting plan shall be submitted to and approved in writing by the Local Planning Authority.

The lighting plan shall demonstrate that the proposed lighting will not impact upon ecological networks and/or sensitive features, e.g. bat and bird boxes, trees, and hedgerows. The submitted scheme shall be designed to take into account the advice on lighting set out in the Bat Conservation Trust's Guidance Note 08/18 Bats and artificial lighting in the UK. The development shall be carried out strictly in accordance with the approved details and thereafter retained for the lifetime of the development.

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

19. Prior to the above ground works commencing samples and/or details of the roofing materials and the materials to be used in the construction of the external walls shall be submitted to and approved in writing by the Local Planning Authority. The development shall be carried out in complete accordance with the approved details.

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

20. Prior to the development hereby permitted being first occupied, the site access, internal access road, parking and turning arrangements shall be laid out in accordance with the approved plans and constructed in accordance with a specification to be first submitted to and approved in writing by the Local Planning Authority.

Reason: To provide an adequate means of pedestrian and vehicular access to the existing and new dwellings.

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

21. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 2015 (or any order revoking and re-enacting that Order with or without modification), no development relating to schedule 2 part 1 class A-H shall be erected, constructed or carried out.

Reason: To maintain the scale, appearance and character of the development and to safeguard residential and / or visual amenities.

22. The existing mature hedging to the northerly and southerly boundaries shall be indefinitely retained at the current height. If the boundary treatment is to be altered, details shall be submitted to and approved in writing by the Local Planning Authority.

Reason: To ensure that the external appearance of the development is satisfactory and to ensure a level of privacy is maintained between the dwellings and those of neighbouring properties.

## Informatives

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

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

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

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

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

Netting of trees or hedges to prevent birds from nesting should be avoided by appropriate planning of work. See guidance at <https://cieem.net/cieem-and-rspb-advise-against-netting-on-hedges-and-trees>.

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

Bats and trees informative

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

Should any works to mature trees be required in the future (e.g. felling, lopping, crowning, trimming) then this should be preceded by a bat survey to determine whether any bat roosts are present and whether a Natural England European Protected Species Licence is required to lawfully carry out the works. The bat survey should be carried out by an appropriately qualified and experienced ecologist in line with the Bat Conservation Trust's Bat Survey: Good Practice Guidelines (3rd edition).

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

General site informative for wildlife protection

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

The following procedures should be adopted to reduce the chance of killing or injuring small



## AGENDA ITEM

animals, including reptiles, amphibians and hedgehogs.

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

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

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

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

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

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

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

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

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

3. 2.1. The Drainage Strategy is acceptable in principle but the Climate Change used should be 40%.

2.2. Surface water and foul drainage schemes for the development should be designed and constructed in accordance with the Council's SUDS Handbook which is available in the Related Documents Section on the Council's Website at: <https://shropshire.gov.uk/drainage-and-flooding/development-responsibility-and-maintenance/sustainable-drainage-systems-handbook/>

2.3. Appendix A2 - Surface Water Drainage Proforma for Minor Developments must be completed and together with associated drainage details, must submitted for approval.

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# AGENDA ITEM



Committee and date  
 North Planning Committee  
 21<sup>st</sup> June 2022

Item  
  
 Public

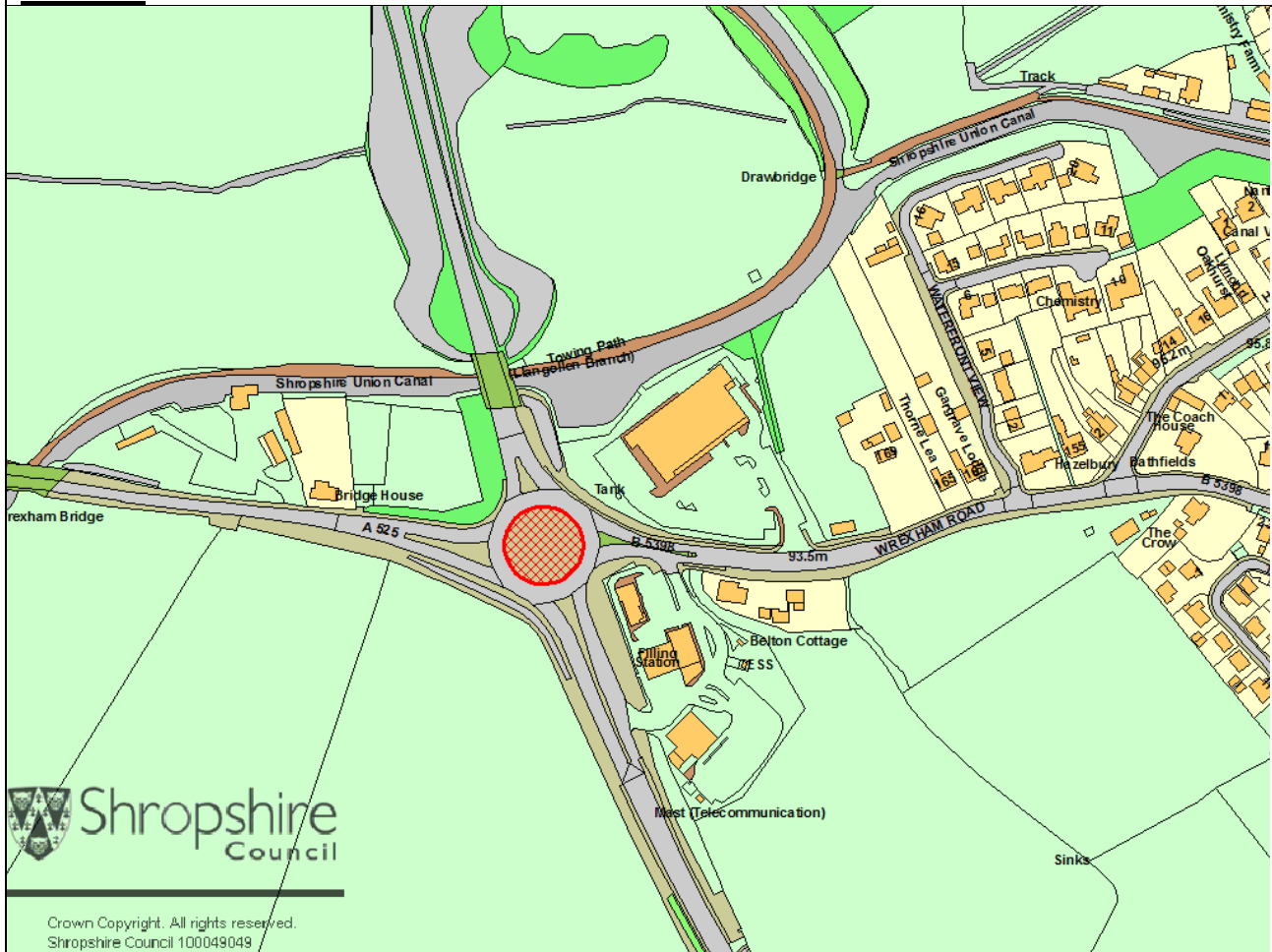
## Development Management Report

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

### Summary of Application

|  |  |                  |
|--|--|------------------|
| <b>Application Number:</b> 22/01663/ADV  | <b>Parish:</b>   | Whitchurch Urban |
| <b>Proposal:</b> Erect and display four sponsorship signs placed on the roundabout |  |                  |
| <b>Site Address:</b> Roundabout Junction A41 and A525, Whitchurch, Shropshire      |  |                  |
| <b>Applicant:</b> CP Media on behalf of Shropshire Council                         |  |                  |
| <b>Case Officer:</b> Richard Denison   | <b>Email:</b> <a href="mailto:planning.northern@shropshire.gov.uk">planning.northern@shropshire.gov.uk</a> |                  |

**Grid Ref:** 352655 - 341340



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

## **REPORT**

### **1.0 THE PROPOSAL**

1.1 This is an advertisement application for the erection of four identical free standing sponsorship signs on behalf of Shropshire Council. The proposed signs will measure 1.2 metres wide by 0.5 metres tall and constructed from steel and aluminium with a powder coated finish with vinyl graphics applied. The sign will be attached onto two dark blue posts 450mm above ground level. The signs will be positioned on the roundabout facing traffic approaching from each direction. All sponsor plaques will be simple in design and the designs will be approved in writing by Shropshire Council. The minimum length of sponsorship is 12 months and the branding on the signs will remain constant during this period.

### **2.0 SITE LOCATION/DESCRIPTION**

2.1 The existing roundabout is located on the Whitchurch bypass at the junction between the A41 and A525 to Wrexham Road. The roundabout is relatively flat and grassed with black and white chevron signs and blue directional highway signs. There are four existing sponsorship advertisement signs on the roundabout which are unauthorised. The roundabout is situated adjacent to a service station which includes an Esso petrol station incorporating a Spar retail shop and Greggs bakery; McDonalds restaurant and takeaway; and a Starbucks coffee shop. There is also an Aldi supermarket adjacent to the roundabout.

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

3.1 This application is in relation to land owned by Shropshire Council which is not in line with a statutory function and therefore this application should be determined by committee.

### **4.0 COMMUNITY REPRESENTATIONS**

#### **4.1 Consultee Comments**

4.1.1 **Shropshire Council, Highways** - No objection is raised on highway safety grounds subject to a site inspection by highways officers prior to the installation and removal of any existing unauthorised signs.

4.1.2 **Whitchurch Town Council** - No formal response has been received.

#### **4.2 Public Comments**

4.2.1 No public representations have been received.

### **5.0 THE MAIN ISSUES**

- Background & Policy
- Impact on Public Safety
- Impact on Visual Amenity

## **6.0 OFFICER APPRAISAL**

### **6.1 Background & Policy**

- 6.1.1 Local authority roundabout sponsorship or advertising schemes are now very common throughout the UK and Shropshire Council would like to offer local businesses the opportunity to advertise. Roundabout sponsorship is typically used by small to medium sized local business to raise their profile. It serves as a cost-effective way for them to promote themselves in high visibility locations for considerably less money than would otherwise be possible - helping boost the local economy. The income generated from advertising on Highway's assets will be reinvested in the Highways network.
- 6.1.2 The National Planning Policy Framework provides guidance on the display of advertisements, in particular paragraph 67 which states "*The quality and character of places can suffer when advertisements are poorly sited and designed. A separate consent process within the planning system controls the display of advertisements, which should be operated in a way which is simple, efficient and effective. Advertisements should be subject to control only in the interests of amenity and public safety, taking account of cumulative impacts*". This is reflected in policy CS6 of Shropshire's Core Strategy and policy MD2 of the Site Allocations and Management of Development (SAMDev) Plan.
- 6.1.3 This application has not been subject to any formal pre-application enquiry.

### **6.2 Impact on Public Safety**

- 6.2.1 The proposed signs will be set back from the edge of the roundabout and clear views are available of traffic on or entering the roundabout. The Council Highways Manager is satisfied that the proposed signs will not be a significant distraction to drivers and that there would be no highway safety implications which could otherwise affect road users

### **6.3 Impact on Visual Amenity**

- 6.3.1 The proposed signs are located on a roundabout which is adjacent to a built-up environment and will be visible to drivers as they approach the roundabout. The signs are modest in size 1.2 metres wide by 0.5 metres tall (total sign area of 0.6 sqm) and will be low to the ground. There are existing street structures including road names, directional signs, chevron barriers, lampposts, advertisement totem signs, etc in and around the proximity of the roundabout. Due to the modest size and low profile of the signs they will not result in a significant visual impact on the street scene or character of the local area.

## **7.0 CONCLUSION**

- 7.1 It is considered that the proposed signs will have no adverse impact on public safety and would have no significant adverse impact on the character and appearance of the site or the visual amenity of the locality. It is recommended that standard advertising conditions are attached to any approval notice issued. The

proposed development meets the criteria of national guidance on advertisements and local plan policies CS6 and MD2.

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

## **8.0 RISK ASSESSMENT AND OPPORTUNITIES APPRAISAL**

### **8.1 Risk Management**

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

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

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

### **8.2 Human Rights**

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

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

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

### **8.3 Equalities**

The concern of planning law is to regulate the use of land in the interests of the public at large, rather than those of any particular group. Equality will be one of a number of 'relevant considerations' that need to be weighed in planning

committee members' minds under section 70(2) of the Town and Country Planning Act 1970.

## **9.0 FINANCIAL IMPLICATIONS**

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

## **10.0 BACKGROUND**

### **10.1 Relevant Planning Policies**

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

**National Planning Policy Framework (July 2021):**

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

CS6 : Sustainable Design and Development Principles

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

MD2 : Sustainable Design

### **10.2 Relevant Planning History**

There is no relevant planning history.

## **11.0 ADDITIONAL INFORMATION**

List of Background Papers - Planning Application 22/01663/ADV

Cabinet Member (Portfolio Holder) - Cllr Edward Potter

Local Member - Cllr Thomas Biggins & Cllr Peggy Mullock

Appendices

APPENDIX 1 - Conditions

## **APPENDIX 1**

### ***Conditions***

#### **STANDARD CONDITION(S)**

1. Any advertisement displayed, and any site used for the display of advertisements, shall be maintained in a condition that does not impair the visual amenity of the site.  
Reason: To comply with the requirements of the Town and Country Planning (Control of Advertisements) (England) Regulations 2007
2. Any structure or hoarding erected or used principally for the purpose of displaying advertisements shall be maintained in a condition that does not endanger the public.  
Reason: To comply with the requirements of the Town and Country Planning (Control of Advertisements) (England) Regulations 2007.
3. Where an advertisement is required under these Regulations to be removed, the site shall be left in a condition that does not endanger the public or impair visual amenity  
Reason: To comply with the requirements of the Town and Country Planning (Control of Advertisements) (England) Regulations 2007.
4. No advertisement is to be displayed without the permission of the owner of the site or any other person with an interest in the site entitled to grant permission.  
Reason: To comply with the requirements of the Town and Country Planning (Control of Advertisements) (England) Regulations 2007.
5. No advertisement shall be sited or displayed so as to—
  - (a) endanger persons using any highway, railway, waterway, dock, harbour or aerodrome (civil or military);
  - (b) obscure, or hinder the ready interpretation of, any traffic sign, railway signal or aid to navigation by water or air; or
  - (c) hinder the operation of any device used for the purpose of security or surveillance or for measuring the speed of any vehicleReason: To comply with the requirements of the Town and Country Planning (Control of Advertisements) (England) Regulations 2007.
6. The development shall be carried out strictly in accordance with the approved plans and drawings  
Reason: For the avoidance of doubt and to ensure that the development is carried out in accordance with the approved plans and details.

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

7. Prior to the installation of the sponsorship signs a site inspection shall be undertaken with the Highways Authority to agree the layout of the signs in context with existing highway street furniture and landscaping. The agreed layout shall be submitted to the Local Planning Authority for approval and the sponsorship signs installed in accordance with the agreement. Any existing signs on the roundabout shall be permanently removed.  
Reason: In the interest of highway safety and visual amenity.





Committee and date  
North Planning Committee  
21st June 2022

Item  
  
Public

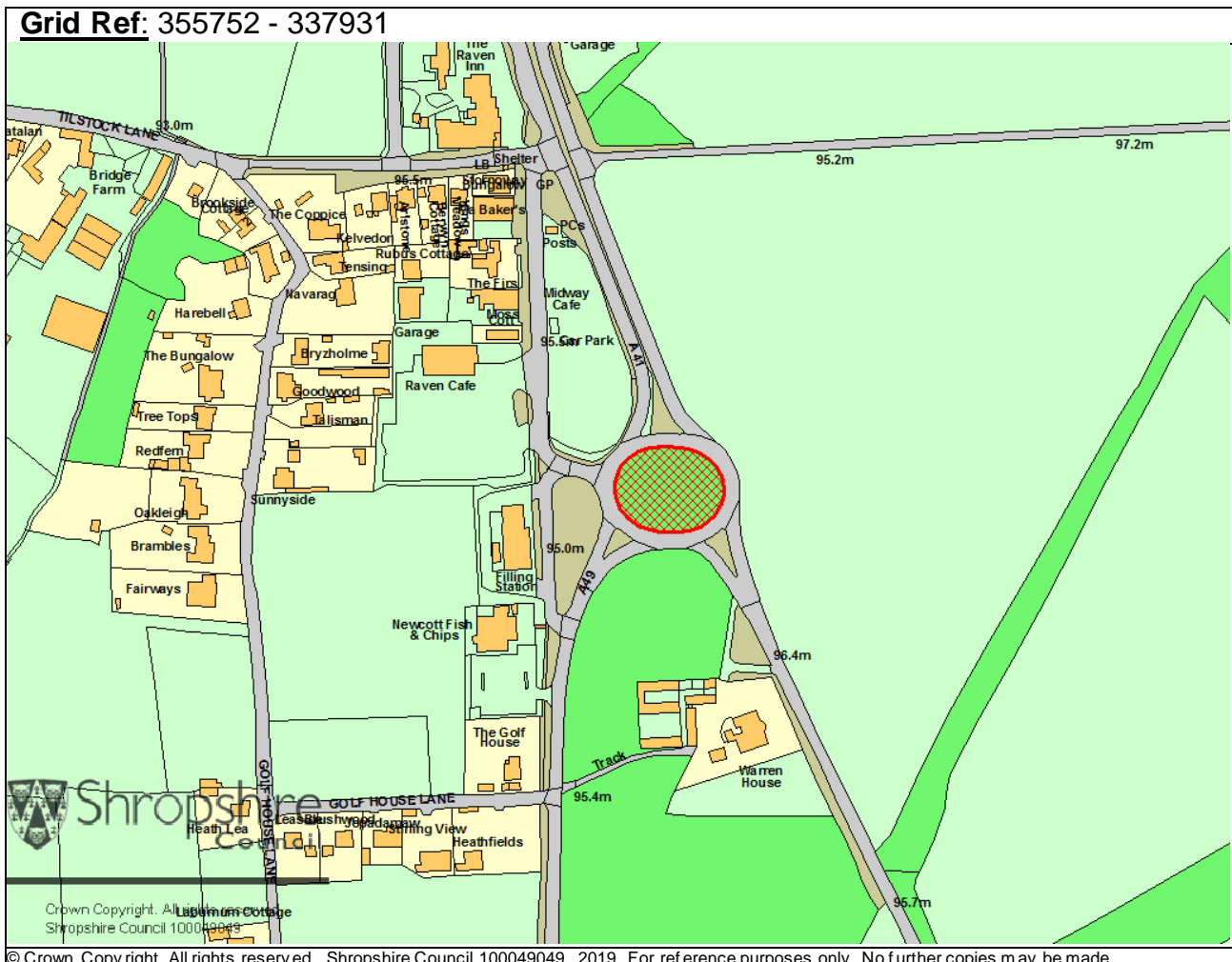
## Development Management Report

Responsible Officer: Tim Rogers

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

### Summary of Application

|   |  |                  |
|---|--|------------------|
| <b>Application Number:</b> 22/01665/ADV   | <b>Parish:</b>   | Whitchurch Rural |
| <b>Proposal:</b> Erect and display three sponsorship signs placed on the roundabout       |  |                  |
| <b>Site Address:</b> Roundabout Junction A41 And A49, Prees Heath, Whitchurch, Shropshire |  |                  |
| <b>Applicant:</b> CP Media on behalf of Shropshire Council                                |  |                  |
| <b>Case Officer:</b> Richard Denison  | <b>Email:</b> <a href="mailto:planning.northern@shropshire.gov.uk">planning.northern@shropshire.gov.uk</a> |                  |



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

## **REPORT**

### **1.0 THE PROPOSAL**

1.1 This is an advertisement application for the erection of three identical free standing sponsorship signs on behalf of Shropshire Council. The proposed signs will measure 1.2 metres wide by 0.55 metres tall and constructed from steel and aluminium with a powder coated finish with vinyl graphics applied. The sign will be attached onto two dark blue posts 450mm above ground level. The signs will be positioned on the roundabout facing traffic approaching from each direction. All sponsor plaques will be simple in design and the designs will be approved in writing by Shropshire Council. The minimum length of sponsorship is 12 months and the branding on the signs will remain constant during this period.

### **2.0 SITE LOCATION/DESCRIPTION**

2.1 The existing large roundabout is located at Prees Heath at the junction between the A41 and A49. The roundabout is relatively flat and grassed with black and white chevron signs and blue directional highway signs. There are six modest sized trees spread around the roundabout. The roundabout is situated adjacent to a service station which includes an Esso petrol station incorporating a shop and a large truck park. Whilst other services including cafes are close by.

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

3.1 This application is in relation to land owned by Shropshire Council which is not in line with a statutory function and therefore this application should be determined by committee.

### **4.0 COMMUNITY REPRESENTATIONS**

#### **4.1 Consultee Comments**

4.1.1 **Shropshire Council, Highways** - No objection is raised on highway safety grounds subject to a site inspection by highways officers prior to the installation and removal of any existing unauthorised signs.

4.1.2 **Whitchurch Rural Parish Council** supports the application.

#### **4.2 Public Comments**

4.2.1 No public representations have been received.

### **5.0 THE MAIN ISSUES**

- Background & Policy
- Impact on Public Safety
- Impact on Visual Amenity

### **6.0 OFFICER APPRAISAL**

## 6.1 Background & Policy

- 6.1.1 Local authority roundabout sponsorship or advertising schemes are now very common throughout the UK and Shropshire Council would like to offer local businesses the opportunity to advertise. Roundabout sponsorship is typically used by small to medium sized local business to raise their profile. It serves as a cost-effective way for them to promote themselves in high visibility locations for considerably less money than would otherwise be possible - helping boost the local economy. The income generated from advertising on Highway's assets will be reinvested in the Highways network.
- 6.1.2 The National Planning Policy Framework provides guidance on the display of advertisements, in particular paragraph 67 which states "*The quality and character of places can suffer when advertisements are poorly sited and designed. A separate consent process within the planning system controls the display of advertisements, which should be operated in a way which is simple, efficient and effective. Advertisements should be subject to control only in the interests of amenity and public safety, taking account of cumulative impacts*". This is reflected in policy CS6 of Shropshire's Core Strategy and policy MD2 of the Site Allocations and Management of Development (SAMDev) Plan.
- 6.1.3 This application has not been subject to any formal pre-application enquiry.

## 6.2 Impact on Public Safety

- 6.2.1 The proposed signs will be set back from the edge of the roundabout and clear views are available of traffic on or entering the roundabout. The Council Highways Manager is satisfied that the proposed signs will not be a significant distraction to drivers and that there would be no highway safety implications which could otherwise affect road users

## 6.3 Impact on Visual Amenity

- 6.3.1 The proposed signs are located on a roundabout which is adjacent to roadside services and a built-up environment and will be visible to drivers as they approach the roundabout. The signs are modest in size 1.2 metres wide by 0.5 metres tall (total sign area of 0.6 sqm) and will be low to the ground. There are existing street structures including road names, directional signs, chevron barriers, lampposts, advertisement totem signs, etc in and around the proximity of the roundabout. Due to the modest size and low profile of the signs they will not result in a significant visual impact on the street scene or character of the local area.

## 7.0 CONCLUSION

- 7.1 It is considered that the proposed signs will have no adverse impact on public safety and would have no significant adverse impact on the character and appearance of the site or the visual amenity of the locality. It is recommended that standard advertising conditions are attached to any approval notice issued. The proposed development meets the criteria of national guidance on advertisements and local plan policies CS6 and MD2.

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

## **8.0 RISK ASSESSMENT AND OPPORTUNITIES APPRAISAL**

### **8.1 Risk Management**

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

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

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

### **8.2 Human Rights**

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

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

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

### **8.3 Equalities**

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

## **9.0 FINANCIAL IMPLICATIONS**

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

## **10.0 BACKGROUND**

### **10.1 Relevant Planning Policies**

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

**National Planning Policy Framework (July 2021):**

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

CS6 : Sustainable Design and Development Principles

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

MD2 : Sustainable Design

### **10.2 Relevant Planning History**

There is no relevant planning history.

## **11.0 ADDITIONAL INFORMATION**

List of Background Papers - Planning Application 22/0165/ADV

Cabinet Member (Portfolio Holder) - Cllr Edward Potter

Local Member - Cllr Gerald Dakin

Appendices

APPENDIX 1 - Conditions

## **APPENDIX 1**

### ***Conditions***

#### **STANDARD CONDITION(S)**

1. Any advertisement displayed, and any site used for the display of advertisements, shall be maintained in a condition that does not impair the visual amenity of the site. Reason: To comply with the requirements of the Town and Country Planning (Control of Advertisements) (England) Regulations 2007

2. Any structure or hoarding erected or used principally for the purpose of displaying advertisements shall be maintained in a condition that does not endanger the public.  
Reason: To comply with the requirements of the Town and Country Planning (Control of Advertisements) (England) Regulations 2007.
3. Where an advertisement is required under these Regulations to be removed, the site shall be left in a condition that does not endanger the public or impair visual amenity  
Reason: To comply with the requirements of the Town and Country Planning (Control of Advertisements) (England) Regulations 2007.
4. No advertisement is to be displayed without the permission of the owner of the site or any other person with an interest in the site entitled to grant permission.  
Reason: To comply with the requirements of the Town and Country Planning (Control of Advertisements) (England) Regulations 2007.
5. No advertisement shall be sited or displayed so as to—
  - (a) endanger persons using any highway, railway, waterway, dock, harbour or aerodrome (civil or military);
  - (b) obscure, or hinder the ready interpretation of, any traffic sign, railway signal or aid to navigation by water or air; or
  - (c) hinder the operation of any device used for the purpose of security or surveillance or for measuring the speed of any vehicleReason: To comply with the requirements of the Town and Country Planning (Control of Advertisements) (England) Regulations 2007.
6. The development shall be carried out strictly in accordance with the approved plans and drawings  
Reason: For the avoidance of doubt and to ensure that the development is carried out in accordance with the approved plans and details.

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

7. Prior to the installation of the sponsorship signs a site inspection shall be undertaken with the Highways Authority to agree the layout of the signs in context with existing highway street furniture and landscaping. The agreed layout shall be submitted to the Local Planning Authority for approval and the sponsorship signs installed in accordance with the agreement. Any existing signs on the roundabout shall be permanently removed.  
Reason: In the interest of highway safety and visual amenity.



Committee and date  
 North Planning Committee  
 21<sup>st</sup> June 2022

Item  
  
 Public

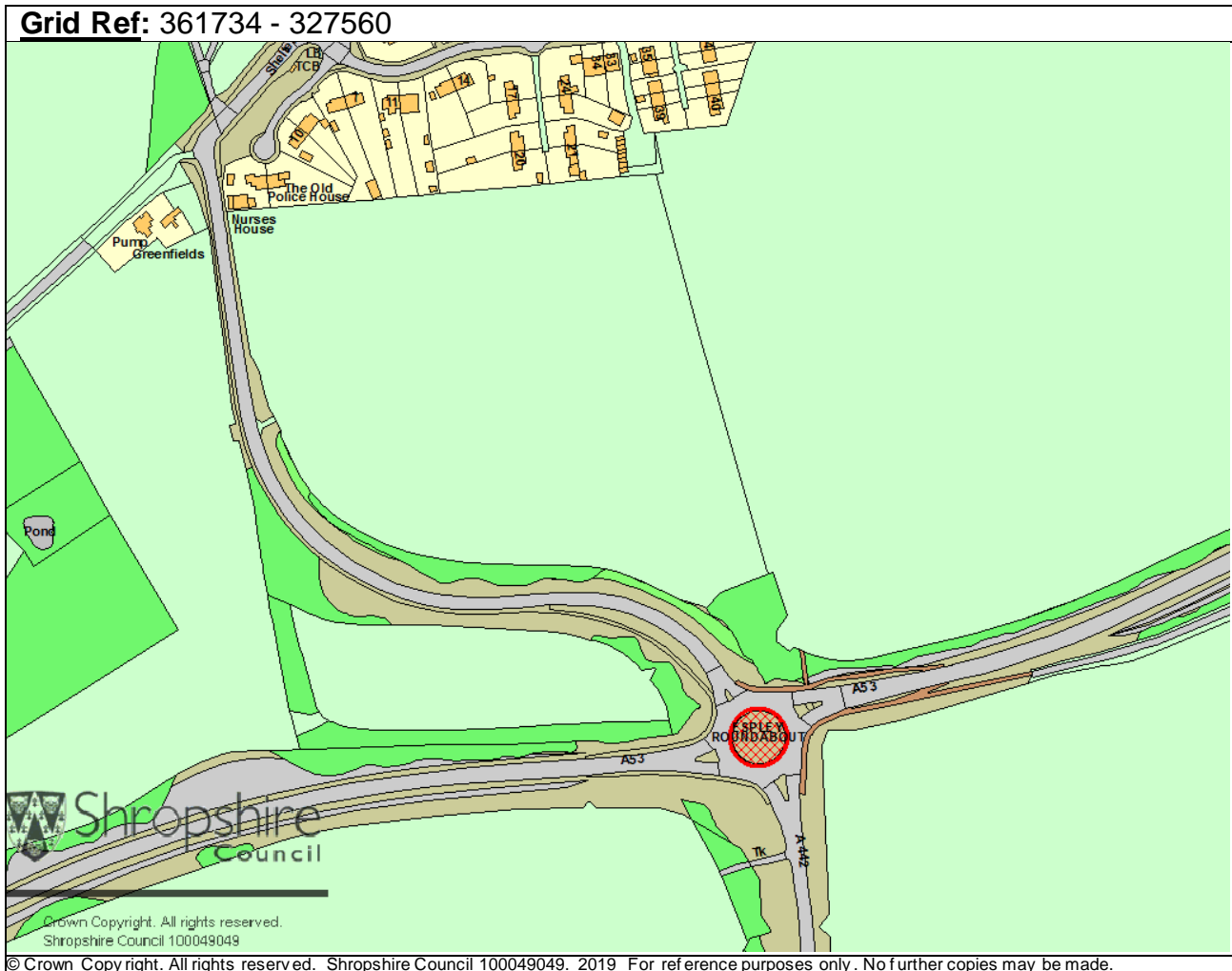
## Development Management Report

Responsible Officer: Tim Rogers

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

### Summary of Application

|  |  |        |
|--|--|--------|
| <b>Application Number:</b> 22/01667/ADV  | <b>Parish:</b>   | Hodnet |
| <b>Proposal:</b> Erect and display four sponsorship signs placed on the roundabout |  |        |
| <b>Site Address:</b> Roundabout Junction A53 and A442, Hodnet, Shropshire          |  |        |
| <b>Applicant:</b> CP Media on behalf of Shropshire Council                         |  |        |
| <b>Case Officer:</b> Richard Denison   | <b>Email:</b> <a href="mailto:planning.northern@shropshire.gov.uk">planning.northern@shropshire.gov.uk</a> |        |



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

## **REPORT**

### **1.0 THE PROPOSAL**

1.1 This is an advertisement application for the erection of four identical free standing sponsorship signs on behalf of Shropshire Council. The proposed signs will measure 1.2 metres wide by 0.5 metres tall and constructed from steel and aluminium with a powder coated finish with vinyl graphics applied. The sign will be attached onto two dark blue posts 450mm above ground level. The signs will be positioned on the roundabout facing traffic approaching from each direction. All sponsor plaques will be simple in design and the designs will be approved in writing by Shropshire Council. The minimum length of sponsorship is 12 months and the branding on the signs will remain constant during this period.

### **2.0 SITE LOCATION/DESCRIPTION**

2.1 The existing roundabout is located on the Hodnet bypass at the junction between the A53 and A442. The roundabout is relatively flat and grassed with black and white chevron signs and blue directional highway signs. In the centre of the roundabout is some tree and shrub landscaping. Street lighting, telegraph and electric poles, telecommunication mast and bollards surround the roundabout. The roundabout is located close to the Community Hub of Hodnet.

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

3.1 This application is in relation to land owned by Shropshire Council which is not in line with a statutory function and therefore this application should be determined by committee.

### **4.0 COMMUNITY REPRESENTATIONS**

#### **4.1 Consultee Comments**

4.1.1 **Shropshire Council, Highways** - No objection is raised on highway safety grounds subject to a site inspection by highways officers prior to the installation and removal of any existing unauthorised signs.

4.1.2 **Hodnet Parish Council** - The parish council objects to signage being placed on the roundabout on safety grounds as they may impact visibility for drivers and be a distraction on a national speed limit road which has had multiple accidents.

#### **4.2 Public Comments**

4.2.1 No public representations have been received.

### **5.0 THE MAIN ISSUES**

- Background & Policy
- Impact on Public Safety
- Impact on Visual Amenity



## **6.0 OFFICER APPRAISAL**

### **6.1 Background & Policy**

- 6.1.1 Local authority roundabout sponsorship or advertising schemes are now very common throughout the UK and Shropshire Council would like to offer local businesses the opportunity to advertise. Roundabout sponsorship is typically used by small to medium sized local business to raise their profile. It serves as a cost-effective way for them to promote themselves in high visibility locations for considerably less money than would otherwise be possible - helping boost the local economy. The income generated from advertising on Highway's assets will be reinvested in the Highways network.
- 6.1.2 The National Planning Policy Framework provides guidance on the display of advertisements, in particular paragraph 67 which states "*The quality and character of places can suffer when advertisements are poorly sited and designed. A separate consent process within the planning system controls the display of advertisements, which should be operated in a way which is simple, efficient and effective. Advertisements should be subject to control only in the interests of amenity and public safety, taking account of cumulative impacts*". This is reflected in policy CS6 of Shropshire's Core Strategy and policy MD2 of the Site Allocations and Management of Development (SAMDev) Plan.
- 6.1.3 This application has not been subject to any formal pre-application enquiry.

### **6.2 Impact on Public Safety**

- 6.2.1 The proposed signs will be set back from the edge of the roundabout and clear views are available of traffic on or entering the roundabout. The Council Highways Manager is satisfied that the proposed signs will not be a significant distraction to drivers and that there would be no highway safety implications which could otherwise affect road users

### **6.3 Impact on Visual Amenity**

- 6.3.1 The proposed signs are located on a roundabout which is close to the built-up settlement of Hodnet and will be visible to drivers as they approach the roundabout. The signs are modest in size 1.2 metres wide by 0.5 metres tall (total sign area of 0.6 sqm) and will be low to the ground. There are existing street structures including road names, directional signs, chevron barriers, lampposts, etc in and around the proximity of the roundabout. Due to the modest size and low profile of the signs they will not result in a significant visual impact on the street scene or character of the local area.

## **7.0 CONCLUSION**

- 7.1 It is considered that the proposed signs will have no adverse impact on public safety and would have no significant adverse impact on the character and appearance of the site or the visual amenity of the locality. It is recommended that standard advertising conditions are attached to any approval notice issued. The

proposed development meets the criteria of national guidance on advertisements and local plan policies CS6 and MD2.

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

## **8.0 RISK ASSESSMENT AND OPPORTUNITIES APPRAISAL**

### **8.1 Risk Management**

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

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

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

### **8.2 Human Rights**

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

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

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

### **8.3 Equalities**

The concern of planning law is to regulate the use of land in the interests of the public at large, rather than those of any particular group. Equality will be one of a number of 'relevant considerations' that need to be weighed in planning

committee members' minds under section 70(2) of the Town and Country Planning Act 1970.

## **9.0 FINANCIAL IMPLICATIONS**

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

## **10.0 BACKGROUND**

### **10.1 Relevant Planning Policies**

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

**National Planning Policy Framework (July 2021):**

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

CS6 : Sustainable Design and Development Principles

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

MD2 : Sustainable Design

### **10.2 Relevant Planning History**

There is no relevant planning history.

## **11.0 ADDITIONAL INFORMATION**

List of Background Papers - Planning Application 22/01667/ADV

Cabinet Member (Portfolio Holder) - Cllr Edward Potter

Local Member - Cllr Paul Gill

Appendices

APPENDIX 1 - Conditions

## **APPENDIX 1**

### ***Conditions***

#### **STANDARD CONDITION(S)**

1. Any advertisement displayed, and any site used for the display of advertisements, shall be maintained in a condition that does not impair the visual amenity of the site.  
Reason: To comply with the requirements of the Town and Country Planning (Control of Advertisements) (England) Regulations 2007
2. Any structure or hoarding erected or used principally for the purpose of displaying advertisements shall be maintained in a condition that does not endanger the public.  
Reason: To comply with the requirements of the Town and Country Planning (Control of Advertisements) (England) Regulations 2007.
3. Where an advertisement is required under these Regulations to be removed, the site shall be left in a condition that does not endanger the public or impair visual amenity  
Reason: To comply with the requirements of the Town and Country Planning (Control of Advertisements) (England) Regulations 2007.
4. No advertisement is to be displayed without the permission of the owner of the site or any other person with an interest in the site entitled to grant permission.  
Reason: To comply with the requirements of the Town and Country Planning (Control of Advertisements) (England) Regulations 2007.
5. No advertisement shall be sited or displayed so as to—
  - (a) endanger persons using any highway, railway, waterway, dock, harbour or aerodrome (civil or military);
  - (b) obscure, or hinder the ready interpretation of, any traffic sign, railway signal or aid to navigation by water or air; or
  - (c) hinder the operation of any device used for the purpose of security or surveillance or for measuring the speed of any vehicle  
Reason: To comply with the requirements of the Town and Country Planning (Control of Advertisements) (England) Regulations 2007.
6. The development shall be carried out strictly in accordance with the approved plans and drawings  
Reason: For the avoidance of doubt and to ensure that the development is carried out in accordance with the approved plans and details.

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

7. Prior to the installation of the sponsorship signs a site inspection shall be undertaken with the Highways Authority to agree the layout of the signs in context with existing highway street furniture and landscaping. The agreed layout shall be submitted to the Local Planning Authority for approval and the sponsorship signs installed in accordance with the agreement. Any existing signs on the roundabout shall be permanently removed.  
Reason: In the interest of highway safety and visual amenity.



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| Committee and date                                     |
| North Planning Committee<br>21 <sup>st</sup> June 2022 |

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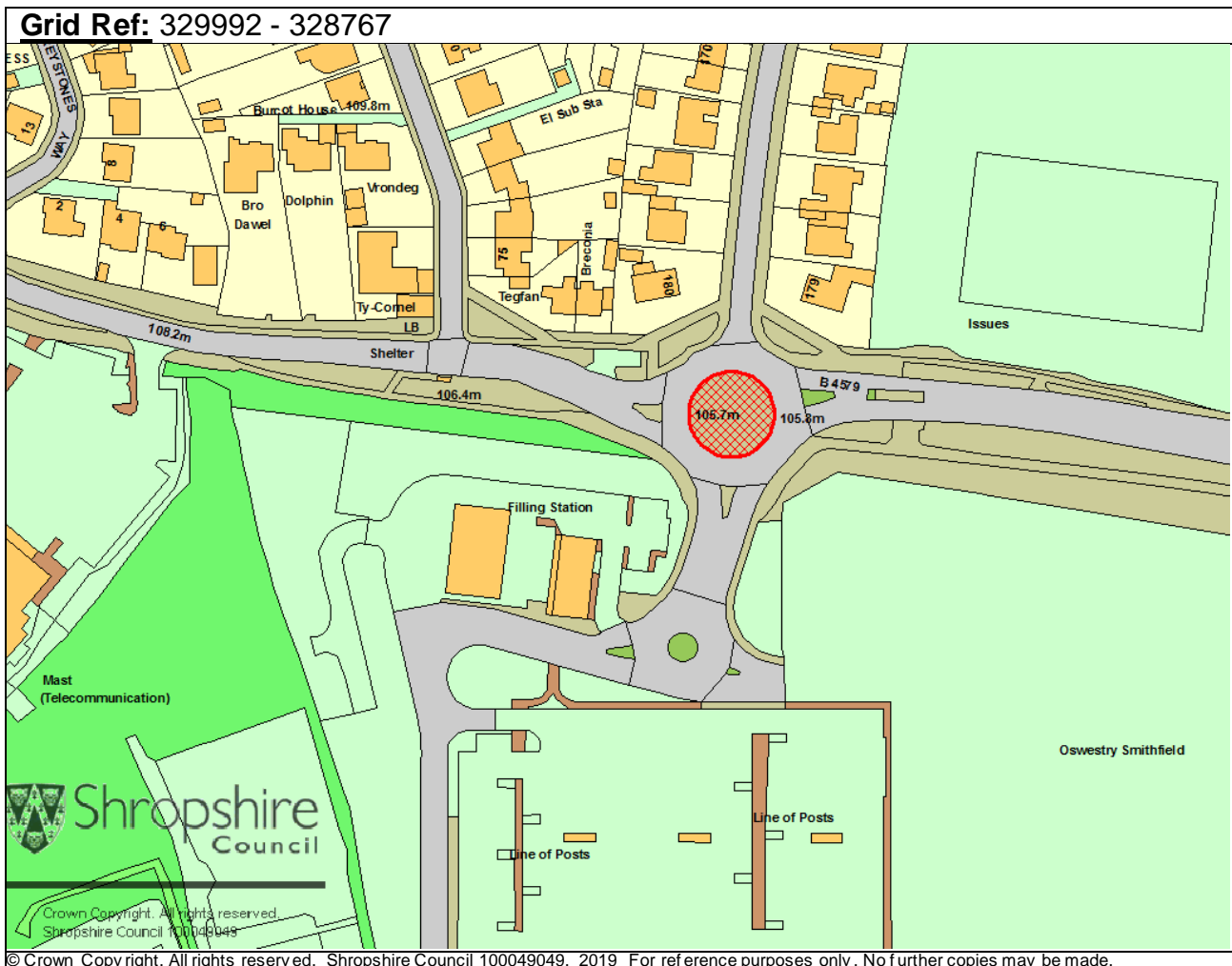
## Development Management Report

Responsible Officer: Tim Rogers

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

### Summary of Application

|   |  |               |
|---|--|---------------|
| <b>Application Number:</b> 22/01669/ADV   | <b>Parish:</b>   | Oswestry Town |
| <b>Proposal:</b> Erect and display four sponsorship signs placed on the roundabout    |  |               |
| <b>Site Address:</b> Roundabout Junction B4579 and College Road, Oswestry, Shropshire |  |               |
| <b>Applicant:</b> CP Media on behalf of Shropshire Council                            |  |               |
| <b>Case Officer:</b> Richard Denison  | <b>Email:</b> <a href="mailto:planning.northern@shropshire.gov.uk">planning.northern@shropshire.gov.uk</a> |               |



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

## **REPORT**

### **1.0 THE PROPOSAL**

1.1 This is an advertisement application for the erection of four identical free standing sponsorship signs on behalf of Shropshire Council. The proposed signs will measure 1.2 metres wide by 0.5 metres tall and constructed from steel and aluminium with a powder coated finish with vinyl graphics applied. The sign will be attached onto two dark blue posts 450mm above ground level. The signs will be positioned on the roundabout facing traffic approaching from each direction. All sponsor plaques will be simple in design and the designs will be approved in writing by Shropshire Council. The minimum length of sponsorship is 12 months and the branding on the signs will remain constant during this period.

### **2.0 SITE LOCATION/DESCRIPTION**

2.1 The existing roundabout is located in Oswestry at the junction between the B4579 Shrewsbury Road and College Road. The roundabout is flat and grassed with black and white chevron signs and blue directional highway signs. It has recently been constructed and was required to facilitate access to the new Morrisons supermarket to the south. The roundabout is situated on a busy road leading from the A5 bypass to the town centre of Oswestry which has a number of commercial developments and businesses closeby.

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

3.1 This application is in relation to land owned by Shropshire Council which is not in line with a statutory function and therefore this application should be determined by committee.

### **4.0 COMMUNITY REPRESENTATIONS**

#### **4.1 Consultee Comments**

4.1.1 **Shropshire Council, Highways** - No objection is raised on highway safety grounds subject to a site inspection by highways officers prior to the installation and removal of any existing unauthorised signs. Roundabout is subject to a Section 278 agreement and is currently the maintenance responsibility of the Morrisons supermarkets. The centre of the roundabout falls within the existing highway boundary.

4.1.2 **Oswestry Town Council** - To object to the application. In considering the application members concluded that there were too many signs proposed and that they were too large. This is a busy gateway into Oswestry and a busy roundabout and members believed that they do not add to the attractiveness of the gateway but moreover that they are a distraction for drivers and reduce visibility. Members have been consistent in their objection to additional signage along this road.

#### **4.2 Public Comments**

4.2.1 No public representations have been received.

## **5.0 THE MAIN ISSUES**

- Background & Policy
- Impact on Public Safety
- Impact on Visual Amenity

## **6.0 OFFICER APPRAISAL**

### **6.1 Background & Policy**

6.1.1 Local authority roundabout sponsorship or advertising schemes are now very common throughout the UK and Shropshire Council would like to offer local businesses the opportunity to advertise. Roundabout sponsorship is typically used by small to medium sized local business to raise their profile. It serves as a cost-effective way for them to promote themselves in high visibility locations for considerably less money than would otherwise be possible - helping boost the local economy. The income generated from advertising on Highway's assets will be reinvested in the Highways network.

6.1.2 The National Planning Policy Framework provides guidance on the display of advertisements, in particular paragraph 67 which states "*The quality and character of places can suffer when advertisements are poorly sited and designed. A separate consent process within the planning system controls the display of advertisements, which should be operated in a way which is simple, efficient and effective. Advertisements should be subject to control only in the interests of amenity and public safety, taking account of cumulative impacts*". This is reflected in policy CS6 of Shropshire's Core Strategy and policy MD2 of the Site Allocations and Management of Development (SAMDev) Plan.

6.1.3 This application has not been subject to any formal pre-application enquiry.

### **6.2 Impact on Public Safety**

6.2.1 Oswestry Town Council has raised objection that the signs will cause a distraction and impede visibility to drivers. However, the proposed signs will only be 950mm above the ground level and will be set back from the edge of the roundabout. This will enable all motorists a clear view over and across the roundabout to oncoming traffic. The Council Highways Manager is satisfied that the proposed signs will not be a significant distraction to drivers and that there would be no highway safety implications which could otherwise affect road users. The signs will not be installed until the roundabout is wholly within the Council ownership.

### **6.3 Impact on Visual Amenity**

6.3.1 Oswestry Town Council has raised objection that there are too many signs and that the signs are too large and will detract from this gateway route into Oswestry. Excluding the Morrisons supermarket signage the next nearest sign is at the Aldi supermarket to the west over 160 metres away, whilst the nearest sign to the east is a sign serving Walford & North Shropshire College which is over 180 metres

away. The proposed signs are located on a roundabout which is located on a road within a built-up environment including commercial development and will be visible to drivers as they approach the roundabout. The signs are modest in size 1.2 metres wide by 0.5 metres tall (total sign area of 0.6 sqm) and will be low to the ground. There are existing street structures including road names, directional signs, chevron barriers, lampposts, etc in and around the proximity of the roundabout. Due to the modest size and low profile of the signs they will not result in a significant visual impact on the street scene or character of the local area.

## **7.0 CONCLUSION**

7.1 It is considered that the proposed signs will have no adverse impact on public safety and would have no significant adverse impact on the character and appearance of the site or the visual amenity of the locality. It is recommended that standard advertising conditions are attached to any approval notice issued. The proposed development meets the criteria of national guidance on advertisements and local plan policies CS6 and MD2.

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

## **8.0 RISK ASSESSMENT AND OPPORTUNITIES APPRAISAL**

### **8.1 Risk Management**

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

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

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

### **8.2 Human Rights**

Article 8 give the right to respect for private and family life and First Protocol Article 1 allows for the peaceful enjoyment of possessions. These have to be balanced



against the rights and freedoms of others and the orderly development of the County in the interests of the Community.

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

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

### 8.3 **Equalities**

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

## 9.0 **FINANCIAL IMPLICATIONS**

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

## 10.0 **BACKGROUND**

### 10.1 **Relevant Planning Policies**

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

**National Planning Policy Framework (July 2021):**

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

CS6 : Sustainable Design and Development Principles

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

MD2 : Sustainable Design

### 10.2 **Relevant Planning History**

There is no relevant planning history.

## 11.0 **ADDITIONAL INFORMATION**

List of Background Papers - Planning Application 22/01669/ADV

Cabinet Member (Portfolio Holder) - Cllr Edward Potter

Local Member - Cllr Chris Schofield

Appendices  
APPENDIX 1 - Conditions

## **APPENDIX 1**

### ***Conditions***

#### **STANDARD CONDITION(S)**

1. Any advertisement displayed, and any site used for the display of advertisements, shall be maintained in a condition that does not impair the visual amenity of the site.  
Reason: To comply with the requirements of the Town and Country Planning (Control of Advertisements) (England) Regulations 2007
2. Any structure or hoarding erected or used principally for the purpose of displaying advertisements shall be maintained in a condition that does not endanger the public.  
Reason: To comply with the requirements of the Town and Country Planning (Control of Advertisements) (England) Regulations 2007.
3. Where an advertisement is required under these Regulations to be removed, the site shall be left in a condition that does not endanger the public or impair visual amenity  
Reason: To comply with the requirements of the Town and Country Planning (Control of Advertisements) (England) Regulations 2007.
4. No advertisement is to be displayed without the permission of the owner of the site or any other person with an interest in the site entitled to grant permission.  
Reason: To comply with the requirements of the Town and Country Planning (Control of Advertisements) (England) Regulations 2007.
5. No advertisement shall be sited or displayed so as to—
  - (a) endanger persons using any highway, railway, waterway, dock, harbour or aerodrome (civil or military);
  - (b) obscure, or hinder the ready interpretation of, any traffic sign, railway signal or aid to navigation by water or air; or
  - (c) hinder the operation of any device used for the purpose of security or surveillance or for measuring the speed of any vehicle  
Reason: To comply with the requirements of the Town and Country Planning (Control of Advertisements) (England) Regulations 2007.
6. The development shall be carried out strictly in accordance with the approved plans and drawings  
Reason: For the avoidance of doubt and to ensure that the development is carried out in accordance with the approved plans and details.

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

7. Prior to the installation of the sponsorship signs a site inspection shall be undertaken with the Highways Authority to agree the layout of the signs in context with existing highway street furniture and landscaping. The agreed layout shall be submitted to the Local Planning Authority for approval and the sponsorship signs installed in accordance with the agreement. Any existing signs on the roundabout shall be permanently removed.  
Reason: In the interest of highway safety and visual amenity.

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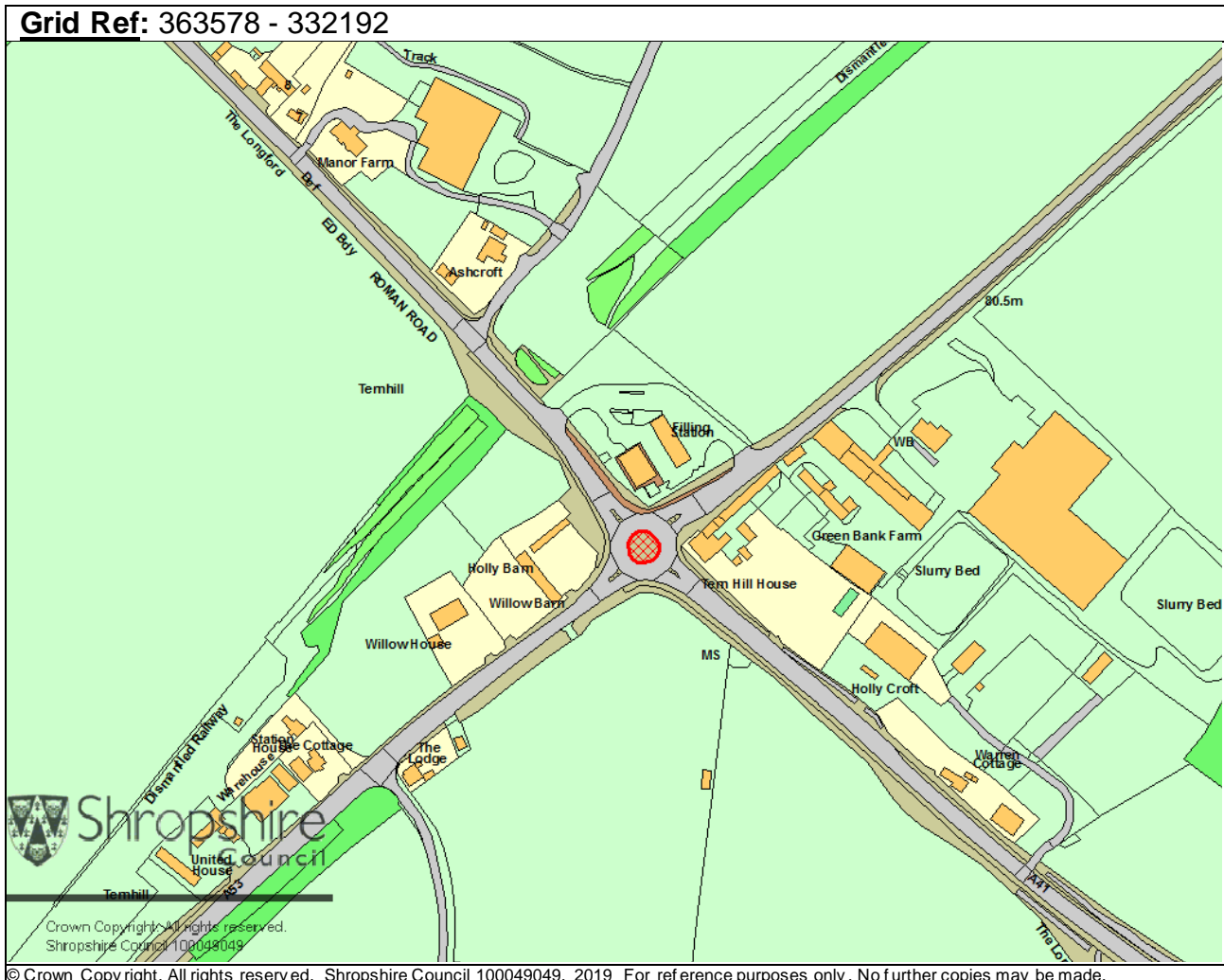
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| Item   |
| Public |

## Development Management Report

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

### Summary of Application

|  |  |                  |
|--|--|------------------|
| <b>Application Number:</b> 22/01686/ADV  | <b>Parish:</b>   | Sutton Upon Tern |
| <b>Proposal:</b> Erect and display four sponsorship signs placed on the roundabout |  |                  |
| <b>Site Address:</b> Roundabout Junction A41 and A53, Tern Hill, Shropshire        |  |                  |
| <b>Applicant:</b> CP Media on behalf of Shropshire Council                         |  |                  |
| <b>Case Officer:</b> Richard Denison   | <b>Email:</b> <a href="mailto:planning.northern@shropshire.gov.uk">planning.northern@shropshire.gov.uk</a> |                  |



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

## **REPORT**

### **1.0 THE PROPOSAL**

1.1 This is an advertisement application for the erection of four identical free standing sponsorship signs on behalf of Shropshire Council. The proposed signs will measure 1.2 metres wide by 0.5 metres tall and constructed from steel and aluminium with a powder coated finish with vinyl graphics applied. The sign will be attached onto two dark blue posts 450mm above ground level. The signs will be positioned on the roundabout facing traffic approaching from each direction. All sponsor plaques will be simple in design and the designs will be approved in writing by Shropshire Council. The minimum length of sponsorship is 12 months and the branding on the signs will remain constant during this period.

### **2.0 SITE LOCATION/DESCRIPTION**

2.1 The existing roundabout is located on the junction between the A41 and A53 at Tern Hill. The roundabout is relatively flat and grassed with black and white chevron signs and blue directional highway signs. There is a single tree in the centre of the roundabout and there are two existing Shropshire Council sponsorship signs on the roundabout which are unauthorised. The roundabout is situated adjacent to a service station which includes a Shell petrol station incorporating a Little Waitrose shop. Ternhill Farmhouse is also located adjacent to the roundabout providing bed and breakfast accommodation.

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

3.1 This application is in relation to land owned by Shropshire Council which is not in line with a statutory function and therefore this application should be determined by committee.

### **4.0 COMMUNITY REPRESENTATIONS**

#### **4.1 Consultee Comments**

4.1.1 **Shropshire Council, Highways** - No objection is raised on highway safety grounds subject to a site inspection by highways officers prior to the installation and removal of any existing unauthorised signs.

4.1.2 **Sutton Parish Council** raise no objection.

4.1.3 **Moreton Say Parish Council** objects to this planning application as they have concerns about the increased distraction and visual impediment that these advertising signs may cause to drivers at this very busy roundabout.

#### **4.2 Public Comments**

4.2.1 No public representations have been received.

### **5.0 THE MAIN ISSUES**

- Background & Policy
- Impact on Public Safety
- Impact on Visual Amenity

## **6.0 OFFICER APPRAISAL**

### **6.1 Background & Policy**

6.1.1 Local authority roundabout sponsorship or advertising schemes are now very common throughout the UK and Shropshire Council would like to offer local businesses the opportunity to advertise. Roundabout sponsorship is typically used by small to medium sized local business to raise their profile. It serves as a cost-effective way for them to promote themselves in high visibility locations for considerably less money than would otherwise be possible - helping boost the local economy. The income generated from advertising on Highway's assets will be reinvested in the Highways network.

6.1.2 The National Planning Policy Framework provides guidance on the display of advertisements, in particular paragraph 67 which states "*The quality and character of places can suffer when advertisements are poorly sited and designed. A separate consent process within the planning system controls the display of advertisements, which should be operated in a way which is simple, efficient and effective. Advertisements should be subject to control only in the interests of amenity and public safety, taking account of cumulative impacts*". This is reflected in policy CS6 of Shropshire's Core Strategy and policy MD2 of the Site Allocations and Management of Development (SAMDev) Plan.

6.1.3 This application has not been subject to any formal pre-application enquiry.

### **6.2 Impact on Public Safety**

6.2.1 Moreton Say Parish Council has raised objection that the signs will cause a distraction and impede visibility to drivers. However, the proposed signs will only be 950mm above the ground level and will be set back from the edge of the roundabout. This will enable all motorists a clear view over and across the roundabout to oncoming traffic. The Parish Council have raised no concerns regarding the existing signs which have been on the roundabout more than six years. However, these signs will be removed to allow the new signage to be installed. The Council Highways Manager is satisfied that the proposed signs will not be a significant distraction to drivers and that there would be no highway safety implications which could otherwise affect road users

### **6.3 Impact on Visual Amenity**

6.3.1 The proposed signs are located on a roundabout which is adjacent to a built-up environment and will be visible to drivers as they approach the roundabout. The signs are modest in size 1.2 metres wide by 0.5 metres tall (total sign area of 0.6 sqm) and will be low to the ground. There are existing street structures including road names, directional signs, chevron barriers, lampposts, advertisement totem signs, etc in and around the proximity of the roundabout. Due to the modest size

and low profile of the signs they will not result in a significant visual impact on the street scene or character of the local area.

## **7.0 CONCLUSION**

7.1 It is considered that the proposed signs will have no adverse impact on public safety and would have no significant adverse impact on the character and appearance of the site or the visual amenity of the locality. It is recommended that standard advertising conditions are attached to any approval notice issued. The proposed development meets the criteria of national guidance on advertisements and local plan policies CS6 and MD2.

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

## **8.0 RISK ASSESSMENT AND OPPORTUNITIES APPRAISAL**

### **8.1 Risk Management**

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

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

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

### **8.2 Human Rights**

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

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



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

### 8.3 **Equalities**

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

### 9.0 **FINANCIAL IMPLICATIONS**

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

### 10.0 **BACKGROUND**

#### 10.1 **Relevant Planning Policies**

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

**National Planning Policy Framework (July 2021):**

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

CS6 : Sustainable Design and Development Principles

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

MD2 : Sustainable Design

#### 10.2 **Relevant Planning History**

There is no relevant planning history.

### 11.0 **ADDITIONAL INFORMATION**

List of Background Papers - Planning Application 22/01686/ADV

Cabinet Member (Portfolio Holder) - Cllr Edward Potter

Local Member - Cllr Rob Gittins

Appendices

APPENDIX 1 - Conditions

## **APPENDIX 1**

### ***Conditions***

#### **STANDARD CONDITION(S)**

1. Any advertisement displayed, and any site used for the display of advertisements, shall be maintained in a condition that does not impair the visual amenity of the site.  
Reason: To comply with the requirements of the Town and Country Planning (Control of Advertisements) (England) Regulations 2007
2. Any structure or hoarding erected or used principally for the purpose of displaying advertisements shall be maintained in a condition that does not endanger the public.  
Reason: To comply with the requirements of the Town and Country Planning (Control of Advertisements) (England) Regulations 2007.
3. Where an advertisement is required under these Regulations to be removed, the site shall be left in a condition that does not endanger the public or impair visual amenity  
Reason: To comply with the requirements of the Town and Country Planning (Control of Advertisements) (England) Regulations 2007.
4. No advertisement is to be displayed without the permission of the owner of the site or any other person with an interest in the site entitled to grant permission.  
Reason: To comply with the requirements of the Town and Country Planning (Control of Advertisements) (England) Regulations 2007.
5. No advertisement shall be sited or displayed so as to—
  - (a) endanger persons using any highway, railway, waterway, dock, harbour or aerodrome (civil or military);
  - (b) obscure, or hinder the ready interpretation of, any traffic sign, railway signal or aid to navigation by water or air; or
  - (c) hinder the operation of any device used for the purpose of security or surveillance or for measuring the speed of any vehicle  
Reason: To comply with the requirements of the Town and Country Planning (Control of Advertisements) (England) Regulations 2007.
6. The development shall be carried out strictly in accordance with the approved plans and drawings  
Reason: For the avoidance of doubt and to ensure that the development is carried out in accordance with the approved plans and details.

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

7. Prior to the installation of the sponsorship signs a site inspection shall be undertaken with the Highways Authority to agree the layout of the signs in context with existing highway street furniture and landscaping. The agreed layout shall be submitted to the Local Planning Authority for approval and the sponsorship signs installed in accordance with the agreement. Any existing signs on the roundabout shall be permanently removed.  
Reason: In the interest of highway safety and visual amenity.



Committee and date  
 North Planning Committee  
 21<sup>st</sup> June 2022

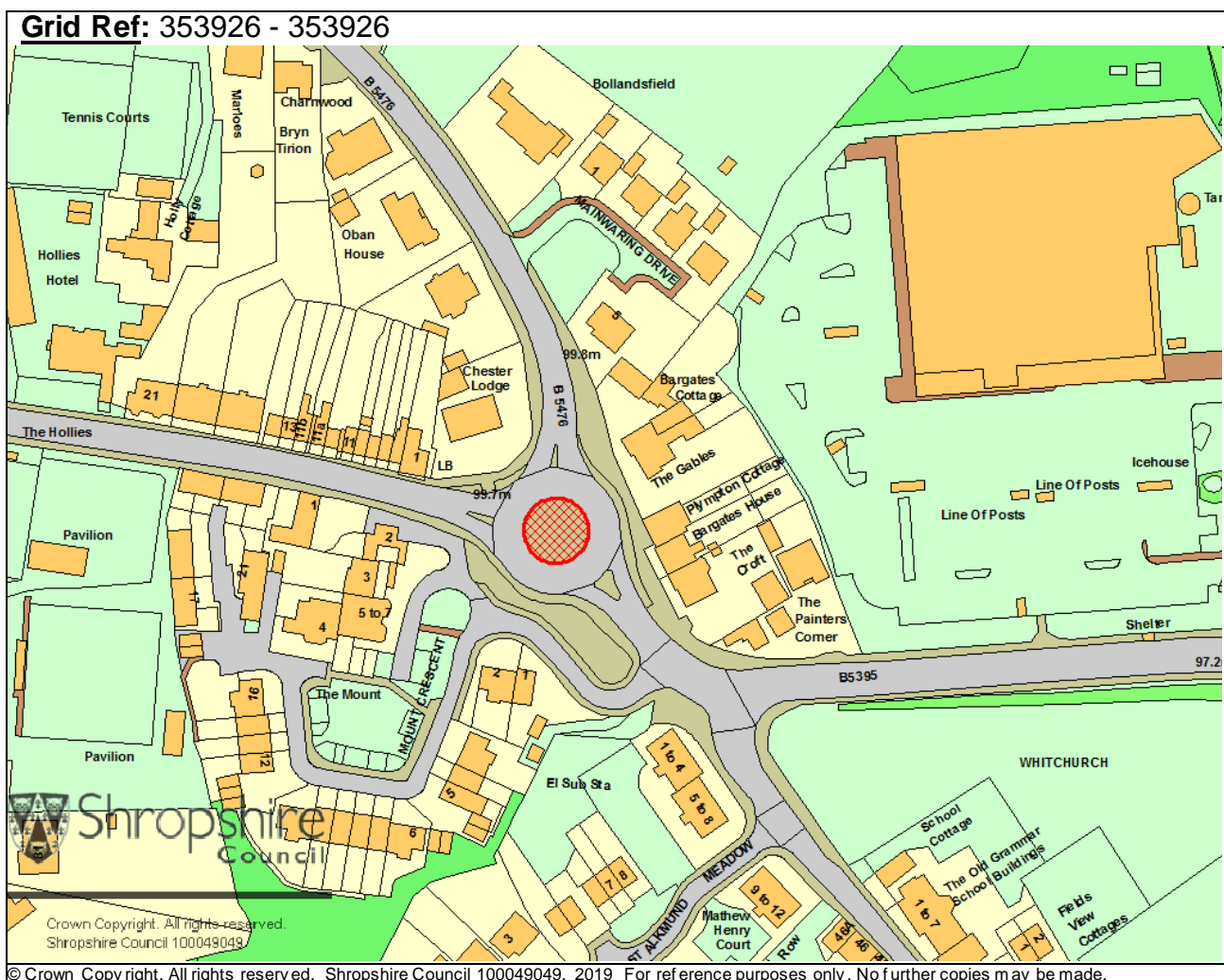
Item  
  
 Public

## Development Management Report

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

### Summary of Application

|  |  |                  |
|--|--|------------------|
| <b>Application Number:</b> 22/01700/ADV  | <b>Parish:</b>   | Whitchurch Urban |
| <b>Proposal:</b> Erect and display three sponsorship signs placed on the roundabout        |  |                  |
| <b>Site Address:</b> Roundabout Junction Chester Road and Bargates, Whitchurch, Shropshire |  |                  |
| <b>Applicant:</b> CP Media on behalf of Shropshire Council                                 |  |                  |
| <b>Case Officer:</b> Richard Denison   | <b>Email:</b> <a href="mailto:planning.northern@shropshire.gov.uk">planning.northern@shropshire.gov.uk</a> |                  |



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

## **REPORT**

### **1.0 THE PROPOSAL**

1.1 This is an advertisement application for the erection of three identical free standing sponsorship signs on behalf of Shropshire Council. The proposed signs will measure 1.2 metres wide by 0.5 metres tall and constructed from steel and aluminium with a powder coated finish with vinyl graphics applied. The sign will be attached onto two dark blue posts 450mm above ground level. The signs will be positioned on the roundabout facing traffic approaching from each direction. All sponsor plaques will be simple in design and the designs will be approved in writing by Shropshire Council. The minimum length of sponsorship is 12 months and the branding on the signs will remain constant during this period.

### **2.0 SITE LOCATION/DESCRIPTION**

2.1 The existing roundabout is located close to Whitchurch town centre at the junction between the B5395 Chester Road and the B5476 Tarporley Road. The roundabout is grassed, has a very slight rise with a low box hedging and planting in the centre with blue directional highway signs. There is a mixture of buildings and residential properties in the vicinity of the roundabout site with a mixture of street furniture close by.

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

3.1 This application is in relation to land owned by Shropshire Council which is not in line with a statutory function and therefore this application should be determined by committee.

### **4.0 COMMUNITY REPRESENTATIONS**

#### **4.1 Consultee Comments**

4.1.1 **Shropshire Council, Highways** - No objection is raised on highway safety grounds subject to a site inspection by highways officers prior to the installation and removal of any existing unauthorised signs.

4.1.2 **Whitchurch Town Council** - No formal response has been received.

#### **4.2 Public Comments**

4.2.1 One letter has been received from an occupier of an adjacent dwelling indicating that Whitchurch is quaint and has a warm atmosphere. Concerns are raised that the proposed signs will cause an eyesore and that Whitchurch will be devalued by the erection of the signs.

### **5.0 THE MAIN ISSUES**

- Background & Policy
- Impact on Public Safety

- Impact on Visual Amenity

## **6.0 OFFICER APPRAISAL**

### **6.1 Background & Policy**

6.1.1 Local authority roundabout sponsorship or advertising schemes are now very common throughout the UK and Shropshire Council would like to offer local businesses the opportunity to advertise. Roundabout sponsorship is typically used by small to medium sized local business to raise their profile. It serves as a cost-effective way for them to promote themselves in high visibility locations for considerably less money than would otherwise be possible - helping boost the local economy. The income generated from advertising on Highway's assets will be reinvested in the Highways network.

6.1.2 The National Planning Policy Framework provides guidance on the display of advertisements, in particular paragraph 67 which states "*The quality and character of places can suffer when advertisements are poorly sited and designed. A separate consent process within the planning system controls the display of advertisements, which should be operated in a way which is simple, efficient and effective. Advertisements should be subject to control only in the interests of amenity and public safety, taking account of cumulative impacts*". This is reflected in policy CS6 of Shropshire's Core Strategy and policy MD2 of the Site Allocations and Management of Development (SAMDev) Plan.

6.1.3 This application has not been subject to any formal pre-application enquiry.

### **6.2 Impact on Public Safety**

6.2.1 The proposed signs will be set back from the edge of the roundabout and clear views are available of traffic on or entering the roundabout. The Council Highways Manager is satisfied that the proposed signs will not be a significant distraction to drivers and that there would be no highway safety implications which could otherwise affect road users

### **6.3 Impact on Visual Amenity**

6.3.1 The proposed signs are located on a roundabout which is within a built-up environment on the approach into Whitchurch town centre and will be visible to drivers as they approach the roundabout. The signs are modest in size 1.2 metres wide by 0.5 metres tall (total sign area of 0.6 sqm) and will be low to the ground. There are existing street structures including road names, directional signs, bollards, lampposts, etc in and around the proximity of the roundabout. Due to the modest size and low profile of the signs they will not result in a significant visual impact on the street scene or character of the local area.

## **7.0 CONCLUSION**

7.1 It is considered that the proposed signs will have no adverse impact on public safety and would have no significant adverse impact on the character and appearance of the site or the visual amenity of the locality. It is recommended that standard advertising conditions are attached to any approval notice issued,

together with a pre-commence. The proposed development meets the criteria of national guidance on advertisements and local plan policies CS6 and MD2.

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

## **8.0 RISK ASSESSMENT AND OPPORTUNITIES APPRAISAL**

### **8.1 Risk Management**

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

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

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

### **8.2 Human Rights**

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

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

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

### **8.3 Equalities**

The concern of planning law is to regulate the use of land in the interests of the public at large, rather than those of any particular group. Equality will be one of a number of 'relevant considerations' that need to be weighed in planning

committee members' minds under section 70(2) of the Town and Country Planning Act 1970.

## **9.0 FINANCIAL IMPLICATIONS**

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

## **10.0 BACKGROUND**

### **10.1 Relevant Planning Policies**

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

**National Planning Policy Framework (July 2021):**

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

CS6 : Sustainable Design and Development Principles

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

MD2 : Sustainable Design

### **10.2 Relevant Planning History**

There is no relevant planning history.

## **11.0 ADDITIONAL INFORMATION**

List of Background Papers - Planning Application 22/01700/ADV

Cabinet Member (Portfolio Holder) - Cllr Edward Potter

Local Member - Cllr Thomas Biggins & Cllr Peggy Mullock

Appendices

APPENDIX 1 - Conditions

## **APPENDIX 1**

### ***Conditions***

#### **STANDARD CONDITION(S)**

1. Any advertisement displayed, and any site used for the display of advertisements, shall be maintained in a condition that does not impair the visual amenity of the site.  
Reason: To comply with the requirements of the Town and Country Planning (Control of Advertisements) (England) Regulations 2007
2. Any structure or hoarding erected or used principally for the purpose of displaying advertisements shall be maintained in a condition that does not endanger the public.  
Reason: To comply with the requirements of the Town and Country Planning (Control of Advertisements) (England) Regulations 2007.
3. Where an advertisement is required under these Regulations to be removed, the site shall be left in a condition that does not endanger the public or impair visual amenity  
Reason: To comply with the requirements of the Town and Country Planning (Control of Advertisements) (England) Regulations 2007.
4. No advertisement is to be displayed without the permission of the owner of the site or any other person with an interest in the site entitled to grant permission.  
Reason: To comply with the requirements of the Town and Country Planning (Control of Advertisements) (England) Regulations 2007.
5. No advertisement shall be sited or displayed so as to—
  - (a) endanger persons using any highway, railway, waterway, dock, harbour or aerodrome (civil or military);
  - (b) obscure, or hinder the ready interpretation of, any traffic sign, railway signal or aid to navigation by water or air; or
  - (c) hinder the operation of any device used for the purpose of security or surveillance or for measuring the speed of any vehicle  
Reason: To comply with the requirements of the Town and Country Planning (Control of Advertisements) (England) Regulations 2007.
6. The development shall be carried out strictly in accordance with the approved plans and drawings  
Reason: For the avoidance of doubt and to ensure that the development is carried out in accordance with the approved plans and details.

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

7. Prior to the installation of the sponsorship signs a site inspection shall be undertaken with the Highways Authority to agree the layout of the signs in context with existing highway street furniture and landscaping. The agreed layout shall be submitted to the Local Planning Authority for approval and the sponsorship signs installed in accordance with the agreement. Any existing signs on the roundabout shall be permanently removed.  
Reason: In the interest of highway safety and visual amenity.





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| Committee and date |
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### Development Management Report

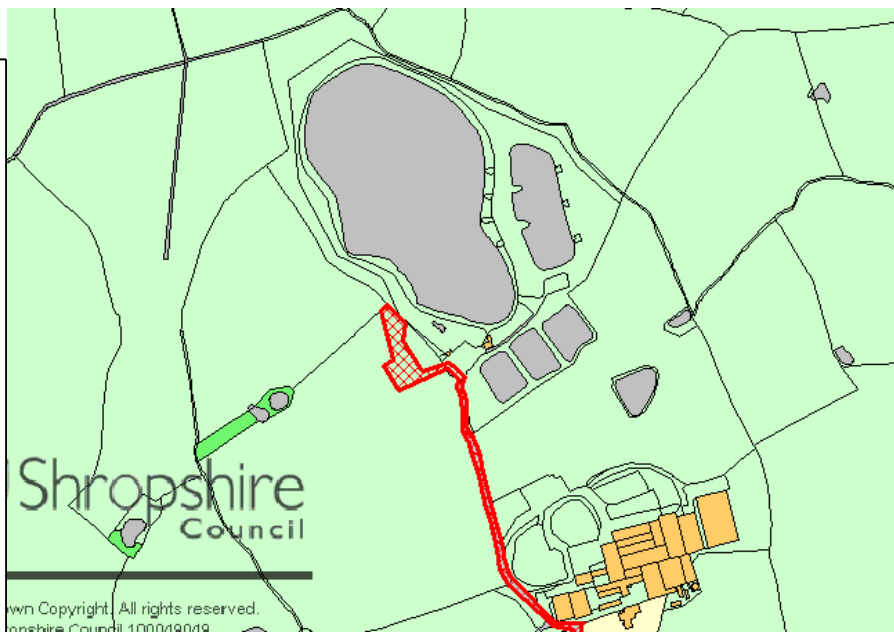
Responsible Officer: Tracy Darke, Assistant Director of Economy & Place

#### Summary of Application

|  |                |                                |
|--|----------------|--------------------------------|
| <b>Application Number:</b> 21/05888/FUL  | <b>Parish:</b> | Baschurch                      |
| <b>Proposal:</b> Erection of an essential workers dwelling including parking and amenity space       |                |                                |
| <b>Site Address:</b> Proposed Essential Workers Dwelling North Of Merrington Bomere Heath Shropshire |                |                                |
| <b>Applicant:</b> Merrington Carp Fishery  |                |                                |
| <b>Case Officer:</b> Mark Perry  | <b>email</b>   | : mark.perry@shropshire.gov.uk |

**Grid Ref:** 345697 - 321452

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**Recommendation:- Refuse for the following reason:**

# AGENDA ITEM

**It is considered that the applicant has failed to provide a sufficiently robust case to demonstrate that there is an essential need for a dwelling on the site to allow the proper functioning of the enterprise. It is considered, on the basis of the evidence provided that there is not a need for the occupier to be present at the business for the majority of the time ("time" being 24 hours a day, 7 days a week). Additionally the financial details submitted have not been independently verified. As such the proposal conflicts with policies CS5 of the Core Strategy, MD7a of SAMDev, the Type and Affordability of Housing SPD and paragraph 80 of the NPPF.**

## REPORT

### 1.0 THE PROPOSAL

- 1.1 The application submitted seeks full planning permission for the erection of an essential workers dwelling along with the creation of associated parking and amenity space. The proposed dwelling would take the form of a 3 bed timber lodge style dwelling and the applicant has confirmed that they would be willing to accept a temporary consent if members are minded to approved the application.
- 1.2 The applicant has had pre-application discussions with Officers where it was concluded that a proposal could obtain Officer support but only where an essential and functional need can be demonstrated.

### 2.0 SITE LOCATION/DESCRIPTION

- 2.1 The site is located in the area of open countryside northwest of Bomere Heath and northeast of Walford Heath. The site comprises of a series of 3 large lakes with the newest lake having been granted planning permission in September 2020 and becoming operational in November 2021. The fishery was established in 2006 and has continued to expand. The applicant advises that fishermen are attracted to the fishery from around the country and occasionally abroad.
- 2.2 The three lakes measure 8 acres, 1.25 acre and 6.2 acres in area. In addition, there are a number of small nursery and stocking pools. In total the 3 lakes provide 28 pegs and contain some 500 caps weighing up to 40lbs. The average weight of the carp is around 25 lbs. The applicant advises that a sizable proportion of the carp have a value of £20,000 each.
- 2.3 The fishery operates year-round with fishermen typically having a 2 or 3 day pass and sleep on site in tents at the lake.
- 2.4 The business is managed by the applicant and her husband who are currently residing at the fishery in an un-lawfully sited static caravan having relocated to the fishery in early 2021.
- 2.5 The applicant does not own any of the land associated with this fishing enterprise. The land is in separate ownership by the occupiers of The Hayes Farm which is a short distance to the south of the fishing lakes. The applicant has secured a 10 year tenancy of the lakes and their surrounding land. This has

## AGENDA ITEM

provided the business with some security that will allow them to continue developing the enterprise. The applicant advises that it is the intention that the tenancy will be renewed in perpetuity.

### 3.0 REASON FOR COMMITTEE DETERMINATION OF APPLICATION

3.1 The application was called to committee by the Local Member within 21 days for material planning reasons in accordance with the adopted scheme of delegation.

### 4.0 Community Representations

#### Consultee Comment

#### 4.1 Parish Council- Support

Baschurch Parish Council overall support the application for the temporary development of the dwelling at the Merrington Fishery for the reasons stipulated. In particular it must always be linked to the business and we would wish for the situation to be reviewed in 2 years time. We do not support development per se in open countryside, this particular application is one that we can support on the basis of the narrative and intention to support and maintain the business. Therefore our further comment is that this is not an affordable home, rather one that is linked to agriculture and a corresponding 106 agreement to be in place.

4.2 **Highways-** No objection

4.3 **Affordable Housing-** Rural workers dwellings are noted as an exception in the SPD Type and Affordability of Housing from the need to contribute to the provision of affordable housing as per Policy CS11 of the Core Strategy. This is on the proviso that such dwellings are legally tied to a S106 Agreement which requires that the dwelling will default to affordable housing if no longer required for a rural workers dwelling. The usual size of a property of this type is 100sqm for consistency with the maximum size allowed for a single plot affordable exception site.

4.4 **Drainage-** 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.

4.5 **Ecology-** There are no specific ecology measures triggered by this application, and we are satisfied with the findings and conclusions in the Ecological Impact Assessment conducted by Churton Ecology in October 2021. Ecology Standing Advice can be applied; the lighting mitigation and habitat enhancement measures specified in the Ecological Impact Assessment are appropriate and should be adopted as part of the application.

#### Public Comments

No representations received at time of writing report.

## 5.0 THE MAIN ISSUES

Principle of development  
Functional Need  
Financial Viability  
Siting, scale and design of structure  
Visual impact and landscaping  
Ecology

## 6.0 OFFICER APPRAISAL

### 6.1 Principle of development

- 6.1.1 Under Section 38(6) of the Planning and Compulsory Purchase Act 2004, all planning applications must be determined in accordance with the adopted development plan, unless material considerations indicate otherwise. Since the adoption of the Shropshire Core Strategy (March 2011) the National Planning Policy Framework (NPPF) has been published and is a material planning consideration, which is given significant weight in any determination process.
- 6.1.2 Paragraph 11 of the NPPF states that for decision making, this means;
- “...approving development proposals that accord with the development plan without delay; or where there are no development plan policies, or the policies which are most important for determining the application are out-of-date, granting permission unless the application of policies in this Framework that protect areas or assets of particular importance provides a clear reason for refusing the development proposed; or any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the Framework taken as a whole.”
- 6.1.3 The NPPF indicates that in order to promote sustainable development in rural areas development should be located where it will enhance or maintain the vitality of rural communities. Specifically, new isolated development should be avoided, unless there are special circumstances to include the provision of an essential need for a rural worker to live permanently at or near their place of work in the countryside (para 80), being determined on an individual objective basis. In those situations where isolated dwellings are unavoidable, applications will be required to demonstrate that a dwelling at the enterprise is essential by showing a functional need for the occupier to be present on-site for the majority of the time.
- 6.1.4 The Local Development Framework (LDF) for Shropshire consists of both the Core Strategy (CS) and the Site Allocations and Management of Development Plan (the SAMDev). Both of these Development Plan Documents recognise the importance to both maintaining and enhancing the countryside’s vitality and characters, subsequently only supporting those proposals for new development that improve the sustainability of the rural communities, by bringing local economic and community benefits – of which accommodation for essential countryside workers is permissible
- 6.1.5 The Type and Affordability of Housing Supplementary Planning Document (SPD) provides a comprehensive approach, which is well tested through the former

## AGENDA ITEM

Annexe A of PPS7, setting out clear guidelines for application. In full recognition of farming (and rural) enterprises changing over time, the SPD supports the granting of occupational dwellings, on the provision that careful assessment has been afforded to prevent abuse of the planning system. This assessment must be fair and based solely on an accurate assessment of the individual needs of the enterprise. Applicants will be required to demonstrate that a dwelling at the enterprise is essential by a showing a functional need for the occupier to be present on site for the majority of the time ("time" being 24 hours a day, 7 days a week).

### 6.2 Essential Need

6.2.1 In addition to the submitted Design and Access Statement the applicant has also provided a supporting statement from Reading Agricultural Consultants which sets out the justification for requiring a permanent residential presence on the site in order to manage the fishery enterprise.

6.2.2 The applicant has claimed that there is a need for a dwelling on the site to serve the existing business with the main justification being for the following aspects of the business:

- monitoring and feeding the growing fish requiring supplementary feed during periods of cold weather
- close monitoring and recording the health of the fish and taking prompt action if any health concerns are identified
- close monitoring of water quality with regular daily checks on the lakes to ensure it meets with the correct levels of oxygen and there are no contaminants
- thinning out of stock from the pools
- preventing predation by cormorants and herons
- security of the site
- welfare and safety of anglers

6.2.3 Neither national nor local planning policy prescribes any criteria against which the essential need for a rural worker to live permanently at or near their place of work in the countryside should be assessed. Despite this it remains necessary for the Planning Authority to establish whether an essential need can be demonstrated and whether it is essential, for the proper running of the enterprise, for a worker to live on the site and be readily available for the majority of the time. ("time" being 24 hours a day, 7 days a week). The unit and activity concerned should also have been established for at least 3 years, profitable, financially sound and with the prospect to remain so.

6.2.4 In addition, it is necessary to establish whether the functional need could not be met by any other available and suitable accommodation in the area.

### 6.3 Monitoring and Feeding

6.3.1 It is recognised that there is a need for the stock to be checked at various times in order to ensure the health of the fish. However, this is not considered that this needs to be constant supervision and that any inspections could be incorporated into a normal pattern of work or shift patterns. No information has been provided to demonstrate that inspections would need to take place through the night.

## AGENDA ITEM

Likewise the applicant refers to the feeding of the fish and how some of the older fish stocks require supplementary feed during cold weather, which can occur outside of normal hours. No evidence has been provided as to the frequency that this occurs or why any additional feeds cannot be planned by careful monitoring of weather forecasts etc. Even if it is necessary on occasions to make feeds outside of normal working hours it would appear from the evidence submitted that this is not a frequent occurrence.

- 6.3.2 The appellant has identified the need to monitor oxygen levels in the ponds. The applicant advises that during the high temperatures in July 2021 they experienced an 'oxygen crash' which saw older and larger fish struggle and subsequently the lakes lost a large number of large fish stock. This then caused a spike in ammonia levels which also led to a few younger fish stock dying.
- 6.3.3 The applicant advises in their statement that for several weeks after the warm weather they and their former Fishery Manager were testing the water for oxygen, pH levels and ammonia every three hours throughout the day and night and relied on a tractor running a water pump during the times when there was the most risk (1am to 8am) - to try and get sufficient oxygen into the lake. This is in addition to covering the lake by boat to ensure the removal of any dead fish.
- 6.3.4 There are no details in the application to suggest that such monitoring could not be undertaken by remote technology or that it could not be undertaken as part of the routine operations of the fishery. From the information provided it is also considered that the likelihood of an oxygen crash is not a frequent occurrence and that should it occur it is only for a short period of time which could be managed by a change to work patterns should hot weather be forecast.
- 6.3.5 The submitted Design and Access Statement states that the applicant requests that all carp caught are examined and their health recorded by a member of staff. There is no evidence provided to show that this needs to be done every time a carp is caught including any caught during the night or outside of normal working hours. It is also noted that the 'Fishery Rules' only asks that Fishery Management is contacted when fish over 30 lbs is caught so that they can be photographed and weighed.

### **6.4 Thinning out of stock**

- 6.4.1 It is considered that the management and thinning of the stock would be part and parcel of the general management and duties of the business and not something that needs to be done outside of normal working hours.

### **6.5 Preventing Predators**

- 6.5.1 The applicant has detailed that cormorant predation is a growing national problem at fishing lakes and that the visible presence of human activity seems to scare the birds away and is a natural deterrent. Cormorant attacks are most common through the winter months and occur at a time when the fish are at their slowest and when they should be resting. Following cormorant attacks the applicant advises that they have seen damage and injury to the fish.
- 6.5.2 The applicant advises that the fishermen are on site for 24 hours a day, therefore

## AGENDA ITEM

Officers consider that there is already a human presence to deter cormorants. It has not been demonstrated that other options in addition to the 24 hour presence of fishermen, have been considered to deter predators such as bird scarer, netting, wires etc. Alternatively, a worker could undertake patrols to deter predatory birds as part of their varied working hours.

### **6.6 Security of the site**

- 6.6.1 The applicant raises the issue of the site's security with regards to biosecurity, fish theft and vandalism. Some of the fish stock are 10 to 15 years old and have a value to around £20,000 for a 40lb carp. As such across the site the value of the fish stock is considerable.
- 6.6.2 The applicant advises that they have installed a new security system which comprises a camera monitoring system although the extent of this and the level of coverage it affords has not been detailed in the submission. It is also noted that the access to the lakes is already protected by security fencing at its entrance. The applicant's consultant advises that these measures would not be dependable given the rural location of the site and that the only effective means of resolving these security matters is through a 24-hour presence. Whilst it is recognised that unlawful entry to the site cannot be eliminated it can be discouraged by the installation of appropriate security measures. In addition, Officers have not been made aware of any previous instances of theft or other security breaches occurring on the site. This would indicate that security is not currently an issue on the site.
- 6.6.3 It is also noted that as the applicant offers fishing over the full 24 hour period, there will often be fishermen on the site who firstly act as a deterrent to any thief but they would also be able to alert the site's manager by phone if they become aware of unauthorised access or suspicious behaviour.
- 6.6.4 It is considered that the issue of security would not warrant the presence of a permanent dwelling on the site.

### **6.7 Financial**

- 6.7.1 The applicant has provided the accounts for the existing business for the 3 years ending 31<sup>st</sup> March 2020. These do show that the business has generated a profit that has increased year on year after paying wages. However, the financial details have been provided by the applicant and not from a chartered accountant. As such, the accuracy of the details and the profitability of the business cannot be verified.
- 6.7.2 In addition, the long term future of the fishing enterprise cannot be guaranteed given the applicant currently only has a 10 year lease on the lakes and the surrounding land.

### **6.8 Visual Impact**

- 6.8.1 The proposed dwelling would be a low timber cabin type structure providing 3 bedrooms. The building is subservient in both its scale and design and would be in keeping with its rural lakeside setting. The building would also be in keeping with the form and character of the other timber buildings that are present. The dwelling would also not be isolated as given its close association with the rest of

## AGENDA ITEM

the site. Overall, Officers consider that the scale and design of the building is appropriate and appropriately sited in relation to the enterprise.

### 6.9 Ecology

6.9.1 The application is accompanied by an Ecological Assessment which has been assessed by the Council's Ecologist. The reports states that the site supports habits of low biodiversity value although bats are considered to be an important feature of the site. The scheme includes acceptable mitigation such as hedgerow planting and installing bat/ bird roosting/nesting features, which overall would result in an increase in the biodiversity value of the site.

### 6.10 Availability of Alternative Accommodation

The nearest dwelling are those owned by the Landlord (The Hayes), there are four dwellings, however, none of these are available to the applicant. Officer also note that there are no dwellings available for purchase or rent with 1 mile of the site. Broadening the search to 3 miles shows that there are properties on the market for between £200,000 and £250,000. As such it is accepted that the availability of affordable dwellings in the locality is limited.

### 6.11 Conclusion

6.11.1 Overall, whilst the erection of a dwelling at a rural enterprise would be desirable in this open countryside location and possibly more convenient for the applicant; Officers consider that this is not a reason to support the application. It is considered that the applicant has failed to provide a sufficiently robust case to demonstrate that there is an essential need for a dwelling on the site to allow the proper functioning of the enterprise. It is considered, on the basis of the evidence provided that there is not a need for the occupier to be present at the business for the majority of the time ("time" being 24 hours a day, 7 days a week) and that the reasons given for needing an on-site presence could be dealt with by alternative working arrangements, practices or the provision of additional equipment.

6.11.2 As such the proposal conflicts with policies CS5 of the Core Strategy, MD7a of SAMDev, the Type and Affordability of Housing SPD and paragraph 80 of the NPPF. The application is therefore recommended for refusal.

## 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



## **AGENDA ITEM**

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**

# AGENDA ITEM

## Relevant Planning Policies

Central Government Guidance:  
NPPF

Core Strategy and Saved Policies:

CS5 - Countryside and Greenbelt  
CS6 - Sustainable Design and Development Principles  
CS11 - Type and Affordability of housing  
CS17 - Environmental Networks  
MD2 - Sustainable Design  
MD7A - Managing Housing Development in the Countryside  
MD7A - Managing Housing Development in the Countryside  
MD12 - Natural Environment  
SPD0 Type and Affordability of Housing

## RELEVANT PLANNING HISTORY:

11. Additional Information

View details online:

|  |
|--|
| List of Background Papers (This MUST be completed for all reports, but does not include items containing exempt or confidential information) |
| Cabinet Member (Portfolio Holder)<br>Councillor Ed Potter  |
| Local Member<br><br>Cllr Nick Bardsley   |
| Appendices<br>APPENDIX 1 - Conditions  |



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| Committee and date |
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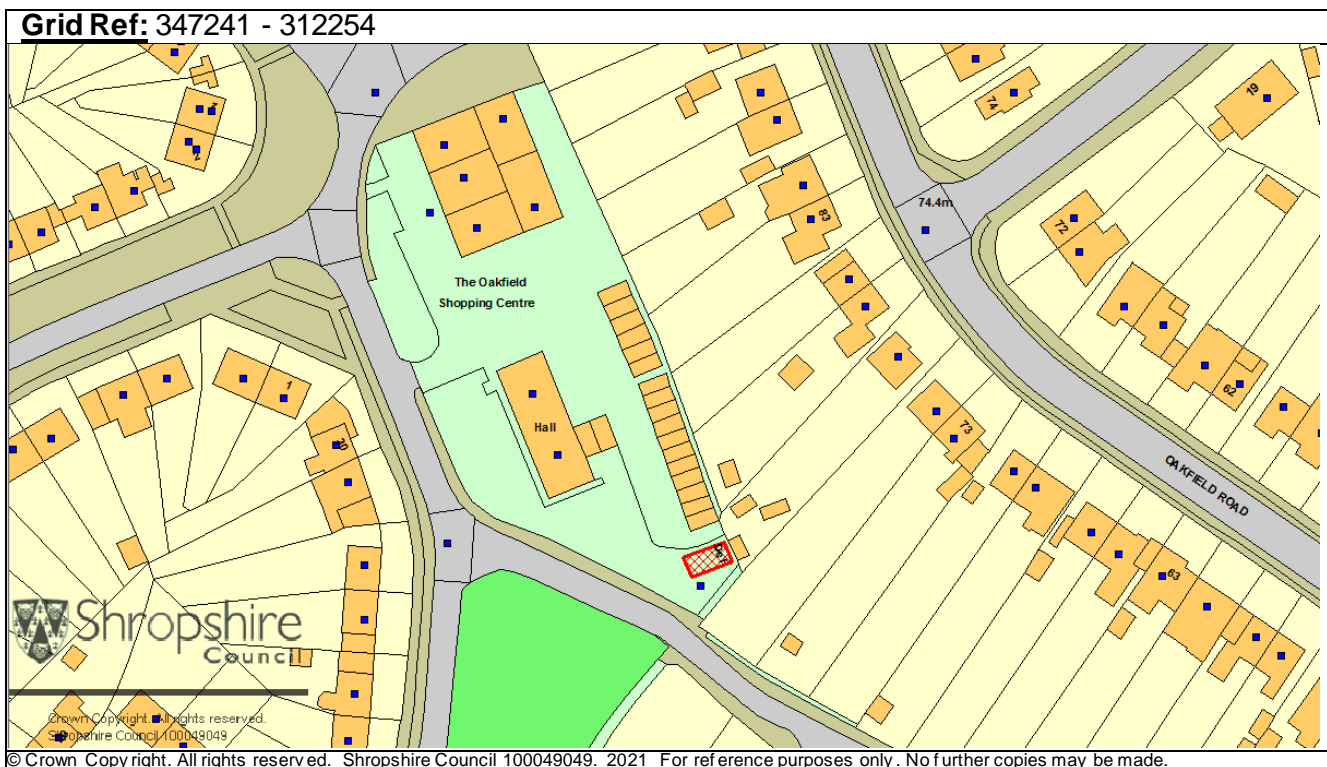
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## Development Management Report

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

### Summary of Application

|   |  |                         |
|---|--|-------------------------|
| <b>Application Number:</b> 22/02030/FUL   | <b>Parish:</b>                               | Shrewsbury Town Council |
| <b>Proposal:</b> Erection of a telecoms shelter with fencing  |  |                         |
| <b>Site Address:</b> Land to the rear of Scout Hut Adj. To Rad Valley Gardens Shrewsbury Shropshire |  |                         |
| <b>Applicant:</b> VX Fibre  |  |                         |
| <b>Case Officer:</b> Jane Raymond   | <b>email:</b> jane.raymond@shropshire.gov.uk |                         |



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

## **REPORT**

### **1.0 THE PROPOSAL**

- 1.1 This application is for the erection of a telecoms shelter with security fencing.
- 1.2 The application form indicates that the shelter will allow up to 8000 homes in the surrounding area to gain access to fibre to the premises with speeds of 1Gbps.

### **2.0 SITE LOCATION/DESCRIPTION**

- 2.1 The site is an area of grass adjacent to an access drive to the rear of 77 Oakfield Road that is accessed via a car parking area and row of garages to the rear of the scout hut at Rad Valley Gardens.
- 2.2 The site is owned by Shropshire Council and should planning permission be granted the following informative advice is recommended to be included on the decision notice:

#### **INFORMATIVE ADVICE**

The application site is owned by Shropshire Council and although the required Certificate B has been completed and notice served on the landowner this planning permission granted by Shropshire Council as the Local Planning Authority does not give the permission of Shropshire Council as landowner to implement the development on Shropshire Council owned land.

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

- 3.1 The proposal does not comply with the delegation to officers as set out in Part 8 of the Shropshire Council Constitution as the application relates to land owned by the Council for development that is not in line with statutory functions.

### **4.0 Community Representations**

#### **4.1 Consultee Comment**

- 4.2 **WSP on behalf of SC Drainage:** Provides informative advice.

#### **4.2 Public Comments**

- 4.2.1 **Shrewsbury Town Council:**

### **5.0 THE MAIN ISSUES**

Principle of development  
Visual impact

## **6.0 OFFICER APPRAISAL**

### **6.1 Principle of development**

- 6.1.1 Part 10 of the National Planning Policy Framework (NPPF) seeks to support advanced, high quality and reliable communications infrastructure and sees it as being essential for economic growth and social well-being. It advocates planning policies and decisions that support the expansion of electronic communications networks, including next generation mobile technology (such as 5G) and full fibre broadband connections.
- 6.1.2 This is supported by local plan policy through Core Strategy Policies CS7 (Communications and Transport) and CS8 (Facilities, Services and Infrastructure Provision) and Site Allocations and Management of Development (SAMDev) Policy MD8 (Infrastructure Provision), which seek to improve, maintain and promote communications infrastructure.
- 6.1.3 The application is to house telecommunications equipment that would support the provision of fibre broadband to more households improving internet speeds and is therefore acceptable in principle with regards to these policies.

### **6.2 Visual Impact**

- 6.2.1 SAMDev Policy MD2 (Sustainable Design) and Core Strategy Policy CS6 (Sustainable Design and Development Principles) requires development to protect and conserve the natural, built and historic environment and be appropriate in scale, density, pattern and design taking into account the local context and character. CS6 also seeks to ensure that all development contributes to the health and well-being of communities, including safeguarding residential and local amenity.
- 6.2.2 The proposed shelter will have a pitched roof and the external dimensions of the shelter are 4.76m long x 2.36m wide and 2.727m high at the apex. A galvanised steel, palisade 1.8m high fence is proposed to be installed around the shelter for security. Both the shelter and fencing are proposed to be in a shade of PPC Green – RAL 6005.
- 6.2.3 The proposed building is relatively small and will be located in a discreet location to the rear of the scout hut and in an area occupied by garages. In this location it is considered that it would have no adverse visual impact on the character and appearance of the locality.

### **6.3 Other matters**

- 6.3.1 The site is adjacent to the rear garden boundary of 75 and 79 Oakfield Road and adjacent to the driveway and gated access to the rear of 79. The proposal would not block access to these gates.
- 6.3.2 The submitted information indicates the following: *'The shelter is to contain active telecoms equipment, and will therefore require power, and contain backup batteries. It will be earthed, and secured, and will only require sporadic access. It*

*will not require plumbing, nor generate waste, as it will not be in constant use' and 'it is ventilated and emits sound in the region of a quiet whisper'.*

6.3.3 Having regard to the proposed location and the boundary fencing and hedgerow that separates the site from the long rear gardens of 75 and 79 Oakfield Road it is considered that the proposal would not result in any significant adverse impact on residential amenity with regards to noise and disturbance.

## **7.0 CONCLUSION**

7.1 It is considered that the siting of the proposed building to house telecommunications equipment is acceptable in principle and would support the provision of communications infrastructure in accordance with Local Plan policies CS7, CS8 and MD8. The proposal would have no significant adverse impact on the character and appearance of the locality or residential amenity, and is therefore considered to accord with Local Plan policies CS6 and MD2.

## **8.0 Risk Assessment and Opportunities Appraisal**

### **8.1 Risk Management**

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

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

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

### **8.2 Human Rights**

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

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

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

### **8.3 Equalities**

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

### **9.0 Financial Implications**

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

## **10. Background**

### **Relevant Planning Policies**

#### **Central Government Guidance:**

National Planning Policy Framework

#### **Core Strategy and Site Allocations and Management of Development (SAMDev) Plan:**

CSD2, CS7, CS8, MD2 and MD8.

## **11. Additional Information**

### **List of Background Papers**

22/02030/FUL - Application documents associated with this application can be viewed on the Shropshire Council Planning Webpages <https://pa.shropshire.gov.uk/online-applications/applicationDetails.do?activeTab=summary&keyVal=RB0FFLTDFN700>

Cabinet Member (Portfolio Holder): Councillor Ed Potter

Local Member: Councillor Julia Evans

Appendices

APPENDIX 1 – Conditions

## **APPENDIX 1**

### **Conditions**

#### **STANDARD CONDITION(S)**

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

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

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

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





Committee and Date  
 Northern Planning Committee  
 24<sup>th</sup> May 2022

Item  
**15**  
 Public

## Development Management Report

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

### SCHEDULE OF APPEALS AS AT COMMITTEE 21<sup>st</sup> June 2022

#### Appeals Lodged

|                                   |   |
|-----------------------------------|---|
| <b>LPA reference</b>              | 22/00812/VAR  |
| <b>Appeal against</b>             | Refusal   |
| <b>Committee or Del. Decision</b> | Delegated   |
| <b>Appellant</b>                  | Mr Tom Edwards  |
| <b>Proposal</b>                   | Variation of condition 2 (approved plans) pursuant of 15/03747/FUL to allow for an amendment to the consented |
| <b>Location</b>                   | Laburnum Barn<br>Wollerton  |
| <b>Date of appeal</b>             | 06.05.2022  |
| <b>Appeal method</b>              | Written Representations   |
| <b>Date site visit</b>            |   |
| <b>Date of appeal decision</b>    |   |
| <b>Costs awarded</b>              |   |
| <b>Appeal decision</b>            |   |

|                                   |   |
|-----------------------------------|---|
| <b>LPA reference</b>              | 22/00180/FUL  |
| <b>Appeal against</b>             | Appeal Against Refusal  |
| <b>Committee or Del. Decision</b> | Delegated Decision  |
| <b>Appellant</b>                  | Mr Ryan Chance  |
| <b>Proposal</b>                   | Erection of a detached garage and workshop with home office and storage above |
| <b>Location</b>                   | Bank House<br>Nobold Lane<br>Shrewsbury                                       |
| <b>Date of appeal</b>             | 04.05.2022  |
| <b>Appeal method</b>              | Householder   |
| <b>Date site visit</b>            |   |
| <b>Date of appeal decision</b>    |   |
| <b>Costs awarded</b>              |   |
| <b>Appeal decision</b>            |   |

|                                   |  |
|-----------------------------------|--|
| <b>LPA reference</b>              | 21/03516/CPE   |
| <b>Appeal against</b>             | Refusal/Refusal in part to grant Certificate of Lawful Use or Development  |
| <b>Committee or Del. Decision</b> | Delegated Decision   |
| <b>Appellant</b>                  | Mr & Mrs C Roberts   |
| <b>Proposal</b>                   | Application for a Lawful Development Certificate for existing use to show commencement of works for the erection of a dwelling |
| <b>Location</b>                   | Proposed Residential Development Adj The Old School<br>Wattlesborough<br>Halfway House<br>Shropshire                           |
| <b>Date of appeal</b>             | 25.04.2022   |
| <b>Appeal method</b>              | Written Representations  |
| <b>Date site visit</b>            |  |
| <b>Date of appeal decision</b>    |  |
| <b>Costs awarded</b>              |  |
| <b>Appeal decision</b>            |  |

|                                   |  |
|-----------------------------------|--|
| <b>LPA reference</b>              | 22/00503/FUL   |
| <b>Appeal against</b>             | Appeal Against Refusal   |
| <b>Committee or Del. Decision</b> | Delegated Decision   |
| <b>Appellant</b>                  | Mrs Johnson-Davies   |
| <b>Proposal</b>                   | Erection of a detached pitched roof garage and associated alterations (resubmission) |
| <b>Location</b>                   | The Haven<br>Shepherds Lane<br>Shrewsbury  |
| <b>Date of appeal</b>             | 04.05.2022   |
| <b>Appeal method</b>              | Householder  |
| <b>Date site visit</b>            |  |
| <b>Date of appeal decision</b>    |  |
| <b>Costs awarded</b>              |  |
| <b>Appeal decision</b>            |  |

#### Appeals Determined

|                                   |  |
|-----------------------------------|--|
| <b>LPA reference</b>              | 21/04400/FUL   |
| <b>Appeal against</b>             | Refusal  |
| <b>Committee or Del. Decision</b> | Delegated  |
| <b>Appellant</b>                  | Keith Collis   |
| <b>Proposal</b>                   | Application under Section 73A of the Town And Country Planning Act 1990 for the installation of external staircase to existing first floor balcony terrace |
| <b>Location</b>                   | Holly House<br>3 The Meadows<br>Ash Parva  |
| <b>Date of appeal</b>             | 29.11.2021   |
| <b>Appeal method</b>              | Fast Track Appeal  |
| <b>Date site visit</b>            | 12.05.2022   |
| <b>Date of appeal decision</b>    | 26.05.2022   |
| <b>Costs awarded</b>              |  |
| <b>Appeal decision</b>            | <b>DISMISSED</b>   |
|                                   |  |
|                                   |  |





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## Appeal Decision

Site visit made on 12 May 2022

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

an Inspector appointed by the Secretary of State

Decision date: 26<sup>th</sup> May 2022

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**Appeal Ref: APP/L3245/D/21/3287915**

**Holly House, 3, The Meadows, Ash Parva, Whitchurch SY13 4EU**

- 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 Keith Collis against the decision of Shropshire Council.
  - The application Ref 21/04400/FUL, dated 8 September 2021, was refused by notice dated 25 October 2021.
  - The development proposed is for an external (black) polyester powder coated steel access staircase to existing 1st floor balcony terrace.
- 

### Decision

1. The appeal is dismissed.

### Procedural Matters

2. The planning application form and decision notice submitted both refer to the name of the appeal property as 'Holly House' as well as its number in the full address details provided, but is omitted from the appeal form. Therefore, I have included the name in the above banner. I have also used 'Ash Parva' rather than 'Ash Prava' as referenced on the application form as that appears to be an omission which is not reflected in the other appeal documents.
3. At the time of my site visit I could see that the external staircase subject to the appeal had already been erected and was substantially complete.

### Main Issue

4. The main issue is the effect of the development on neighbouring living conditions at no.2 The Meadows having regard to resultant privacy levels.

### Reasons

5. I appreciate that the external staircase in dispute is located close to the side elevations of the host dwelling and no.2. However, its position still enables the potential unrestricted peering over of neighbouring garden space from an elevated outdoor standing point.
6. Moreover, I accept that the staircase is not designed for users to stand on it for long periods of time, or is intended to provide seating options. Nonetheless, the existing or any future occupants of the host property could potentially sit or stand on the staircase for extended periods of time without any planning controls being able to prevent those circumstances from occurring. Nor could they successfully control the frequency of its use in facilitating access to and from the balcony terrace.

7. Whilst I acknowledge the appellant's arguments that there is no harm to privacy as the staircase is positioned away from any neighbouring rear facing windows, I am not persuaded the issues I have outlined are unimportant. Regular overlooking of neighbouring outdoor space is possible as a consequence of the use of the staircase which directly impacts on neighbouring privacy levels.
8. Although views of neighbouring garden space are already possible from the host dwellings existing rear facing first floor windows and the approved balcony terrace, the majority of those views are further away from the shared boundary.
9. Furthermore, the balcony area also has some privacy screening along its sides minimising the potential for overlooking to arise when seated. Given those factors, the presence of the external staircase due to its proximity and greater open qualities results in a more intrusive impact.
10. Overall, taking into account all of the points raised by the appellant, including those related to the privacy impacts associated to the approved balcony terrace, I find that the additional presence of the staircase erodes from neighbouring privacy by an unacceptable degree.
11. The stairwell results in excessive possibilities for occupants to peer over the boundary towards neighbouring garden space from an unrestricted elevated outdoor position. As a consequence, its presence significantly erodes from the enjoyment of neighbouring outdoor space.
12. Accordingly, I find that the appeal development adversely impacts on the privacy levels and subsequent living conditions enjoyed by the occupiers of no.2 The Meadows. It conflicts with Policy CS6 of the Shropshire Local Development Framework: Adopted Core Strategy 2011 which seeks to safeguard residential amenity as well as the objectives of paragraph 130 f) of the National Planning Policy Framework which requires that planning decisions ensure a high standard of amenity.

### **Other matters**

13. I note that the Council has not cited any objections to the general appearance of the staircase when measuring it against planning policy. I have no reason to disagree. Nevertheless, the absence of such objections does not take away from the harm I have identified. Moreover, there are ample options available to access the balcony terrace from the habitable rooms serving the host dwelling, allowing it to be utilised irrespective of the staircase being present.

### **Conclusion**

14. For the reasons set out above the appeal fails.

*M Shrigley*

INSPECTOR