



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

Date: Monday, 27 February 2023

Committee: Northern Planning Committee

Date: Tuesday, 7 March 2023

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 to check that a seat will be available for you.

Please click [here](#) to view the livestream of the meeting on the date and time stated on the agenda
The recording of the event will also be made available shortly after the meeting on the Shropshire Council Youtube Channel [Here](#)

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 Elner
Ted Clarke
Nat Green
Vince Hunt
Mark Jones (Vice Chairman)
Mike Isherwood
Edward Towers
David Vasmer
Paul Wynn (Chairman)

Substitute Members of the Committee

Gerald Dakin
Steve Davenport
Julian Dean
Nigel Hartin
Pamela Moseley
Alex Wagner

Your Committee Officer is:

Emily Marshall / Shelley Davies Committee Officer

Tel: 01743 257717 / 01743 257718

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

AGENDA

1 Apologies for Absence

To receive apologies for absence.

2 Minutes (Pages 1 - 6)

To confirm the Minutes of the meeting of the North Planning Committee held on 10th January 2023, attached, marked 2.

Contact: Shelley Davies on 01743 257718.

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, 1st March 2023

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 The Old Airfield Site, Eaton Upon Tern, Market Drayton, Shropshire, TF9 2BX (22/01866/FUL) (Pages 7 - 48)

Construction of solar farm with all associated infrastructure

6 Meadowland, Sleaf, Harmer Hill, Shrewsbury, Shropshire, SY4 3HE (22/02001/EIA) (Pages 49 - 72)

Erection of three additional poultry units with associated air scrubber units, control rooms, feed blending rooms, feed bins, hardstanding, dirty water tanks and a drainage attenuation pond, together with retrofitting an air scrubber unit to an existing poultry shed

7 Victoria Garage Scotland Street Ellesmere Shropshire SY12 0DG (22/05178/FUL) (Pages 73 - 94)

Demolition of existing garage building, re-aligned access onto Scotland Street and erection of two terraces of 3No dwellings and 2No semi-detached dwellings with associated parking and garden areas

8 17 Honeysuckle Row, Shrewsbury, Shropshire, SY3 7TW (22/05603/FUL) (Pages 95 - 108)

Erection of new detached dwelling following demolition of existing garages

9 Appeals and Appeal Decisions (Pages 109 - 172)

10 Exclusion of Public and Press

To consider a resolution under Section 100 (A) of the Local Government Act 1972 that the proceedings in relation to the following items shall not be conducted in public on the grounds that they involve the likely disclosure of exempt information as defined by the provisions of Schedule 12A of the Act.

11 Planning Enforcement Quarterly Report (Pages 173 - 186)

12 Date of the Next Meeting

To note that the next meeting of the North Planning Committee will be held at 2.00 pm on Tuesday 4th April 2023 in the Shrewsbury Room, Shirehall, Shrewsbury.

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Committee and Date

Northern Planning Committee

7th February 2023

NORTHERN PLANNING COMMITTEE

Minutes of the meeting held on 10 January 2023

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

2.00 - 3.42 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 Paul Wynn (Chairman)

Councillors Joyce Barrow, Garry Burchett, Geoff Elner, Vince Hunt, Mike Isherwood, Edward Towers, David Vasmer, Steve Davenport (Substitute for Mark Jones) and Alex Wagner (Substitute for Nat Green)

89 Apologies for Absence

Apologies for absence were received from Councillors Ted Clarke, Nat Green (Substitute: Alex Wagner) and Mark Jones (Substitute: Steve Davenport).

90 Minutes

RESOLVED:

That the Minutes of the meeting of the North Planning Committee held on 6th December 2022 be approved as a correct record and signed by the Chairman.

91 Public Question Time

There were no public questions or petitions received.

92 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 respect of agenda item 7, application number 22/05113/FUL Councillor David Vasmer declared a pecuniary interest as his wife was the applicant and stated that he would withdraw from the meeting and take no part in the debate and would not vote on the item.

In respect of agenda item 7, application number 22/05113/FUL Councillor Alex Wagner declared an interest on the grounds of perceived bias due to his friendship with the applicant and stated that he would withdraw from the meeting and take no part in the debate and would not vote on the item.

93 Proposed Residential Development Land To The South Of Welshpool Road, Bicton Heath, Shrewsbury, Shropshire - 22/03543/FUL

The Planning Manager North introduced the application for a mixed residential development of 106 dwellings and associated public open space, internal highways, car parking, garages and landscaping with vehicular access from Gains Park Way (Amended Description) and confirmed that the Committee had undertaken a site visit that morning to assess the impact of the proposed development on neighbouring properties and the surrounding area.

Members' attention was drawn to the information contained within the Schedule of Additional letters which included three letters of objection from members of the public.

Councillor Elliot Blackmore, on behalf of Bicton Parish Council spoke against the proposal in accordance with Shropshire Council's Scheme for Public Speaking at Planning Committees.

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

The Solicitor confirmed that the application site was located in the Tern Division and clarified that the officer's recommendation should refer to the Planning and Development Services Manager and not the Assistant Director.

The Planning Manager North, in response to comments made by the speaker for the Parish Council confirmed that although Severn Trent Water had not officially commented on the proposal there had been discussion in relation to drainage matters. He advised that if members were minded to approve the application authority should be delegated to the Planning and Development Services Manager to grant approval subject to confirmation from Severn Trent Water that the submitted drainage strategy was acceptable.

During the ensuing debate, members noted concerns in relation to highway safety and questioned why there was no condition to ensure the proposed pedestrian crossing on Gains Park Road was in place prior to the occupation of the dwellings. The Planning Manager North advised that the conditions could be amended to include reference to the proposed crossing on Gains Park Road if members considered this was appropriate.

The Planning Manager North, in response to comments from members, explained that the financial contribution to the Northwest Relief Road formed part of the SUE Masterplan and noted that the adopted policy does not require developers to provide

bungalows. He added that officers were satisfied the scheme included a good range of dwellings.

Having considered the submitted plans and listened to the comments made by all of the speakers, members unanimously expressed their support for the proposal subject to Severn Trent Water having no objection to the submitted drainage strategy and the amendment to conditions to include reference to the pedestrian crossing on Gains Park Road.

RESOLVED:

That in accordance with the Officers recommendation authority be delegated to the Planning and Development Services Manager to grant planning permission subject to:

- The conditions as outlined in appendix one of the report and any amendments to these as considered necessary by the Planning and Development Services Manager;
- The signing of a Section 106 agreement in order to secure provision of affordable housing, on site open space provision and a financial contribution towards the Northwest Relief Road;
- No objection from Severn Trent Water in relation to the submitted drainage strategy; and
- An amendment to the conditions to include reference to the proposed pedestrian crossing on Gains Park Road.

94 Land Adjacent to Melville House, Station Road, Baschurch, Shropshire - 22/03752/FUL

The Senior Planning Officer introduced the application for the erection of 48 Dwellings Across 3 Phases with Associated Access Roads, Parking and Landscaping, including Provision of Land for Train Station Car Park and confirmed that the Committee had undertaken a site visit that morning to assess the impact of the proposed development on neighbouring properties and the surrounding area.

Members' attention was drawn to the information contained within the Schedule of Additional letters which included updates from the Case Officer.

Tracey Lacon on behalf of local residents spoke against the proposal in accordance with Shropshire Council's Scheme for Public Speaking at Planning Committees.

Robert Jones on behalf of the Baschurch Station Campaign Group spoke in support of the proposal in accordance with Shropshire Council's Scheme for Public Speaking at Planning Committees.

Councillor Andy Woodthorpe, on behalf of Baschurch Parish Council spoke in support of the proposal in accordance with Shropshire Council's Scheme for Public Speaking at Planning Committees.

In accordance with the Local Protocol for Councillors and Officers dealing with Regulatory Matters (Part 5, Paragraph 15.1) Councillor Nick Bardsley, as local ward councillor, made a statement in support of the application.

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

During the ensuing debate members considered the proposal to be infill development and that the benefits of the scheme which included the overprovision of affordable housing, over provision of open space and the provision of land for a station car park outweighed the conflict to the adopted development plan.

The Solicitor advised that as members were minded to approve the application any permission granted would be subject to the signing of a Section 106 agreement in order to secure provision of affordable housing, on site open space provision, the provision of land for a station car park and a financial contribution towards the Colemere RAMSAR site and appropriate planning conditions. The Senior Planning Officer outlined the suggested planning conditions which included standard commencement and plans conditions and those to cover:

- Japanese Knotweed mitigation
- Ecology mitigation
- Vegetation clearance
- Proposed materials
- Habitat Management Plan
- Archaeology measures
- Tree protection measures
- Estate roads and lighting
- Estate roads phasing plan
- Surfacing, layout, drainage and lighting of the proposed railway station car park
- Electric vehicle charging points

Members felt that an additional condition should be included to ensure the station car park was appropriately maintained and not used for long term storage of site equipment

Having considered the submitted plans and listened to the comments made by all of the speakers, members unanimously expressed their support for the proposals, contrary to the Planning Officer's recommendation.

RESOLVED:

That planning permission be granted contrary to the officer recommendation for the following reason:

Members considered the proposal to be infill development and that the benefits of the scheme which included the over provision of affordable housing, over provision of open space and the provision of land for a station car park outweighed the conflict to the adopted development plan.

Subject to:

- The Planning and Development Services Manager being granted delegated powers to attach conditions to include standard commencement and plans conditions and conditions outlined at the meeting; and
- The signing of a Section 106 agreement in order to secure provision of affordable housing, on site open space provision, the provision of land for a station car park and a financial contribution towards the Colemere RAMSAR site.

95 34 Bynner Street, Shrewsbury, Shropshire SY3 7NZ - 22/05113/FUL

In accordance with their declaration at minute 92, Councillors David Vasmer and Alex Wagner left the room and took no part in the debate or voting on the item.

The Planning Manager North introduced the application for the erection of rear extension and remodelling of existing detached house, to provide fully an accessible house for a disabled applicant (modifications to previously approved 22/02574/FUL).

Having considered the submitted plans, members unanimously expressed their support for the proposal.

RESOLVED:

That in accordance with the officer recommendation, planning permission be granted subject to the conditions set out in Appendix 1 of the officer report.

96 Appeals and Appeal Decisions

RESOLVED:

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

97 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, 7th February 2023, in the Shrewsbury/Oswestry Room, Shirehall, Shrewsbury.

Signed (Chairman)

Date:



Northern Planning Committee

7th March 2023

Development Management Report

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

Summary of Application

Application Number: 22/01866/FUL	Parish:	Stoke Upon Tern
Proposal: Construction of solar farm with all associated infrastructure		
Site Address: The Old Airfield Site Eaton Upon Tern Market Drayton Shropshire TF9 2BX		
Applicant: Eaton-Upon-Tern Solar Limited		
Case Officer: Kelvin Hall	email: kelvin.hall@shropshire.gov.uk	

Grid Ref: 365674 - 323570

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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 seeks planning permission for a ground-mounted solar farm and associated infrastructure on agricultural land at the Old Airfield, Eaton-upon-Tern. The proposal would have a capacity of approximately 49MW. It would consist of a photovoltaic panels in a series of parallel rows in a west-east orientation. The panels would be tilted to face south, and have a maximum height of 3.2 metres. The distance between the rows would typically be 4.1 metres. Associated ancillary structures would include inverter buildings and cabins sited across the site. These would have dimensions 12.2 metres x 2.4 metres x 2.9 metres high. CCTV cameras would be provided on poles of up to 4 metres in height. Perimeter fencing would be 2 metres high stock-proof wire deer fencing. There would also be a need for a Distribution Network Operator (DNO) substation which would be located at the southern side of the site, having a height of up to 8 metres. Permission is sought for the retention of the solar farm for 40 years. At the end of this period the panels and associated infrastructure would be removed and the land would be restored back to agricultural use.
- 1.2 Vehicular access to the site would be via an existing access point to the former airfield from the north, from the Newport Road.
- 1.3 A suite of detailed technical assessments accompany the application. These include a Landscape and Visual Impact Assessment, a Heritage Impact Assessment, an Ecological Appraisal, a Flood Risk Assessment, a Glint and Glare Assessment, a Transport Assessment, an Arboricultural Assessment, and an Agricultural Land Assessment.
- 1.4 The applicant undertook a community engagement exercise for the proposal and this included the holding of a public exhibition in the local area. The planning application includes a report of community engagement. This notes that approximately 70 people attended the event. The report states that the scheme has been amended in response to comments made as part of this public engagement, including additional screening and amendments to the construction traffic routing to avoid Childs Ercall village.

2.0 SITE LOCATION/DESCRIPTION

- 2.1 The application site is situated on the south-west part of a former airfield to the north-east of the village of Eaton-upon-Tern. The site extends to an area of approximately 52 hectares, comprising land primarily in agricultural use spread over five main fields. The site is bounded by a public highway to the west and a former airfield perimeter road to the south and east. Surrounding land is principally in agricultural use, and includes large agricultural warehouses and hangar buildings. An egg-laying unit occupies the central part of the site. This land is excluded from the application site boundary. The unit includes three large egg production

buildings which are located on the former airfield runway.

- 2.2 The nearest residential properties are those in Eaton-upon-Tern; the closest of these being approximately 54 metres from the application site boundary and approximately 80 metres from the proposed panels. There is an existing belt of trees and shrubs along the southern boundary of the site, and further lengths of tree and hedgerow around other parts of the site's perimeter.

3.0 REASON FOR COMMITTEE DETERMINATION OF APPLICATION

- 3.1 The views of the Parish Councils are contrary to the officer recommendation. In addition the local Members have both requested that the application is determined by planning committee. It was agreed by the Team Manager (Planning) in consultation with the committee chair and vice-chair that material planning considerations had been raised and that the application to be considered by the planning committee.

4.0 Community Representations

4.1 -Consultee Comments

4.1.1 Stoke upon Tern Parish Council Objects.

Firstly, the Parish Council feels very strongly that the application in its present form should be withdrawn to address the serious concerns raised in relation to the potential for contamination of the boreholes on which both the neighbouring villages depend for their water supplies. This would also enable the Applicant to directly commission reports to address this and also to reconsider the height and location of the closest panels to Eaton upon Tern, which we feel are too high and too close, and to fully assess the archaeological issues.

If the Application remains under consideration the Parish Council strongly OBJECTS to the Application and asks that the Application formally goes to the Planning Committee for consideration as not enough weight has so far been given to mitigate against the harm the Application has the potential to cause to the health and wellbeing of the parishioners directly affected by the Application.

If Shropshire Council is minded to grant permission, the Parish Council would urge strong Conditions within a Section 106 Agreement be placed on the Application. These should cover the issues highlighted above, independent monitoring of the site, plus the routing of construction traffic away from the villages and through the site, bio-friendly additions only to the water used on site for cleaning purposes, the full reinstatement of the site with an agreed plan plus better and thicker screening and greening of the site. The Parish Council would also request that an Annual Community Fund of say £10,000 from the Applicant be established and paid to the Parish Council to administer jointly with Childs Ercall Parish Council for the lifetime of the development as no Community Infrastructure Levy applies to this Application.

4.1.2 Childs Ercall Parish Council (access road lies within parish boundary) – objects.

Part of the land comprised in this application falls within the Parish of Childs Ercall.

This Parish Council does not object to the principle behind this proposal, but we have significant concerns with material aspects of the application as made, sufficient to make us object to this proposal until these concerns are adequately addressed.

1. Site servicing

The proposed accessway for the construction traffic is a very basic farm track. It will simply be ignored by truck drivers unless it is very significantly improved, widened, and provided with passing places and storage areas. The application shows no such proposals. There is no value in an unusable access which in practice would just be ignored, and consequently we object to the application until such time as we are satisfied an adequate access which will actually be used will be provided.

2. Water supplies

We have two related concerns. We are not satisfied that an adequate supply arrangement for cleaning water is provided for. That will in practice result in a high level of water abstraction from boreholes, with a consequent drain on existing users' security of supply.

We are also concerned about leachates from the site going into the aquifer. These fall into distinct categories, pollutants already on site which will be released by the works, cleaning materials brought onto the site, and water brought onto the site for cleaning purposes which may not be from clean sources. We do not feel these questions surrounding the long-term practical use of water on the site have been adequately addressed, and consequently we object until such time as they are.

3. Restoration and remediation

We see no clear and credible plan here for the restoration of the site at the end of its economic life, which will be a maximum of 40 years, probably less. We see a developer which is hopelessly undercapitalised, and therefore not only does there need to be a clear statement of the restoration/remediation plan, there needs to be some security for the implementation of that plan as an unsupported covenant from the developer is in practice wholly unenforceable.

In addition to these points of basic objection we have a number of other comments where we would like some further scrutiny of the application.

We are concerned about the overall impact on the landscape given the area of land affected and the height of so much of the equipment. This will constitute a very large developed mass, with very high fences around it and so will be a major adverse feature in the landscape. We do not consider the landscaping proposals to be adequate, with very over optimistic estimates of the growing times of hedges, with the conflation of hedges with "woodland", and with the proposed use of a combination of sheep and long grass which is simply incompatible.

We are concerned that the location of this scale of development is within open

countryside within the meaning of the Core Strategy and the emerging development plan. We understand the desire for increased power generation, but all power is generated at some cost, and we are not persuaded the whole cost here, not just the cash, has been adequately quantified. We are not technically qualified but we do question the energy loss cost of siting a huge installation so far from any point of consumption, or link to the national network.

Finally, it seems to us, that although the long term adverse impact is not in our parish that it is a big ask of local people to accept a development of this scale and which is so intrusive in a situation where there is no local gain whatsoever. This development dwarfs the residential development we see, both in scale and impact, yet will pay no CIL. It does not seem compatible with the ordinary principles of communal life that an overseas based speculative developer can come into a rural area with a holistic local mindset and inflict this level of damaging impact, yet provide no local off-set benefit whatsoever.

This Parish Council therefore objects to this application

4.1.3 **Childs Ercall Parish Council and Stoke on Tern Parish Council – joint statement**

Following the SALC AGM held on 11th November a motion was filed to request that some form of Community Benefit should be included in Shropshire Council's Planning Policies for all alternative energy planning applications. This is to protect or recompense those communities who bare the burden of these types of developments. The motion was passed unanimously and SALC intend to move forward with this action. In the meantime a letter has been send to the applicant from both parish councils, the points raised are summarised as follows:

- both Parish Councils have made formal comments on this application and have raised the question of community benefit. We are aware that several of the other schemes for solar power currently being promoted in Shropshire do include provision for meaningful community benefit. This proposal contains no such provision.
- an appropriate community benefit for a scheme such as this would be for the developer to provide a solar power system to the village halls at Stoke on Tern and Childs Ercall. This would be appropriate in terms of the development proposed, would represent a tiny fraction of the overall scheme in terms of output and cost, would presumably be an insignificant incidental in the installation process and would provide real local benefit to both communities. You are of course already aware of the role these halls play in village life, you used the Childs Ercall Jubilee Hall for your consultation presentation.
- neither hall presents any unusual difficulty in putting in such an installation, particularly given the level of expertise you will have on site in any event
- Given that we are looking at a scheme intended to power 16,600 houses two very modest village hall installations seem very small beer indeed in the context and we would hope that you would also see it that way. This would be an appropriate community benefit having regard to the development proposed, it would be of considerable long term local value to both parishes and importantly from your perspective, you are in a position to provide these

installations at almost no noticeable additional cost to your scheme.

It is unconscionable that developers be given free reign with these plans without consideration or remuneration to communities which are irrevocably altered whilst they profit without being held accountable in some way. This represents the absolute bare minimum our communities would be looking for and does not negate other suggestions that have gone before.

4.1.4 **Telford & Wrekin Council (adjacent planning authority)** No objection, subject to the following conditions:

- External materials (as application form states no materials will be used in the development)
- Decommissioning strategy after 40-year lifespan of solar farm
- Decommissioning strategy in the event the solar farm ceases to produce electricity for 12-months during the 40-year lifespan
- Details of final layout, battery compound and elevations prior to commencement
- Submission of ecological monitoring reports to ensure delivery of biodiversity net gain (including post-development and removal of infrastructure)
- Should the expected biodiversity net gains not be achieved then the habitat retention, enhancement and creation measures then a condition to amend and implement improved biodiversity net gains would prove beneficial.

4.1.5 **SC Conservation** No objection from a built heritage perspective as it is considered that the existing boundary hedgerows and trees (as long as they are retained) and the proposed mitigation planting as indicated on drawing 3081-001 REV.C is sufficient to ensure that no harm will be caused to the identified and assessed heritage assets.

4.1.6 **SC Archaeology** Recommends a condition.

The proposed development comprises a c.49MW solar farm covering area of approximately 5.25 ha on a former WWII airfield (HER PRN 28261), c. 200m east of Eaton Upon Tern. The airfield opened as RAF Childs Ercall as a training airfield and was renamed RAF Peplow in 1943 to avoid confusion with the nearby RAF High Ercall. The airfield was substantially rebuilt at around this time and equipped with three concrete runways for use by 83 Operational Training Unit (RAF Bomber Command). In the run-up to D-Day, it was also used by a Heavy Glider Conversion Unit (Training Command) equipped with Albemarle tugs and Horsa gliders. At the end of the War the RAF vacated Peplow and replaced by the Navy, who also had another field at Hinstock, and renamed it RNAS Peplow (HMS Godwit II). It closed in 1949.

In addition to the WWII airfield, the Shropshire HER contains a record of a possible rectilinear cropmark enclosure of Iron Age/ Roman (HER PRN 04495) on the development site within the area that has been returned to agricultural use between the former runways.

A geophysical survey of the development site was completed prior to submission of the current planning which identified a range of anomalies. This included a large number of anomalies and areas of disturbance relating to the former airfield, together with a range of anomalies that either clearly or are likely to pre-date the airfield. The latter includes former field boundaries and two former historic roads that can be identified on historic editions of the Ordnance Survey map, together with land drains. The possible cropmark enclosure site (HER PRN 04495) was not clearly identified by the survey, although two short linear anomalies in the general vicinity of site recorded on the HER could potentially be associated with it.

There are a number of cropmark features of likely prehistoric date within the wider vicinity of the proposed development site, which at the pre-application stage suggested that other currently unknown prehistoric features might exist elsewhere. However, the geophysical survey did not identify any such features and the results have been interpreted as indicating that the construction of the airfield included significant levelling and landscaping of the site.

For these reasons, the proposed development site is assessed by the archaeological desk-based assessment as having low archaeological potential.

We understand that the Conservation Officer will provide comments on the historic built environment.

In relation to requirements set out in Local Plan Policy MD13 and Paragraph 189 of the NPPF, the applicant has submitted an Archaeological Desk-Based Assessment by Wardell Armstrong, which includes as an Appendix a geophysical survey report by MOLA Northampton. Whilst officers confirm approval of these reports, and broadly concur with their findings, it is asserted that assessed archaeological potential of the proposed development site has not yet been tested through evaluation trenching. None-the-less, it is agreed that no archaeological features have been identified which would preclude development. Together these reports therefore provide sufficient information about the archaeological interest of the development site to enable the application to be determined.

Given that the presence of below ground remains of a prehistoric enclosure cannot be entirely discounted, it is therefore advised in relation to Local Plan Policy MD13 of the Local and Paragraph 205 of the NPPF that a programme of archaeological work is made a condition of any planning permission. This should comprise a targeted trial trenching evaluation of a sample of the non-airfield related geophysical anomalies, including the site of the potential enclosure, followed by further mitigation if required. The recommended condition is in Appendix 1.

- 4.1.7 **SC Highways** No objection. In addition to the review of the applicant's response Appendix D shows the route from A41 which does not travel through the local villages. Therefore a planning condition will be required to ensure construction traffic does not travel through local village and maintains the route as shown. Condition recommended (see Appendix 1).

4.1.8 **SC Drainage** No objection. The site is greater than 1.0 ha. and a FRA has been produced. The drainage strategy in the FRA is acceptable.

4.1.9 **SC Regulatory Services** No objection; recommends conditions.

Solar farms do not generally generate a significant amount of noise, the main noise source is likely to be from the vehicle movements during the construction phase of the development. The transport assessment indicates that at the peak of the construction phase there is predicted to be a 0.7% increase in traffic movement.

This is not expected to have a significant adverse impact in regards to noise. However, to minimise the impact on nearby residential properties during the construction and demolition phases it is recommended that a condition is applied to any consent granted to specify the times of use of machinery and delivery vehicles; and to minimise dust.

4.1.10 **SC Environmental Protection** No objection; recommends conditions.

Environmental Protection has identified the proposed development site (former Peplow airfield) as potentially contaminated land under the Councils Environmental Protection Act 1990, Part 2A responsibilities.

The site overlays a Principal Aquifer, which is particularly vulnerable to the presence of contamination.

Environmental Protection has no objection to the proposed development, but there is one area of the site where further assessment of potential contaminant risks is required.

Environmental Protection has a record of a historic petroleum licence for the site. A licence was held to store 2000 gallons of petrol in one underground storage tank; the use was stated 'for aerial crop spraying'; there is also mention of a single compartment 100 litre aviation fuel tank. The location of the former underground fuel tank is in the area of the proposed grid substation compound in the south of the site.

The tank was decommissioned in 1988 when it was converted to store diesel and the current status/use of the tank is unknown.

Therefore, if planning permission is granted, the risks associated with former fuel storage must be assessed and a condition should be included to require that a Site Investigation Report is submitted for approval to inform whether a Remediation Strategy is required.

4.1.11 **Environment Agency** No comments made.

4.1.12 **Natural England** No objections.

The proposed development will not have significant adverse impacts on statutorily protected nature conservation sites.

Soils and Agricultural Land Quality

Under the Town and Country Planning (Development Management Procedure) (England) Order 2015 (DMPO) Natural England is a statutory consultee on development that would lead to the loss of over 20ha of best and most versatile (BMV) agricultural land (land graded as 1, 2 and 3a in the Agricultural Land Classification (ALC) system, where this is not in accordance with an approved plan.

From the description of the development this application is likely to affect 40.41 ha of BMV agricultural land. We consider that the proposed development, if temporary as described, is unlikely to lead to significant permanent loss of BMV agricultural land, as a resource for future generations. This is because the solar panels would be secured to the ground by steel piles with limited soil disturbance and could be removed in the future with no permanent loss of agricultural land quality likely to occur, provided the appropriate soil management is employed and the development is undertaken to high standards.

Although some components of the development, such as construction of a sub-station, may permanently affect agricultural land this would be limited to small areas.

However, during the life of the proposed development it is likely that there will be a reduction in agricultural production over the whole development area. Your authority should therefore consider whether this is an effective use of land in line with planning practice guidance which encourages the siting of large scale solar farms on previously developed and non-agricultural land. Paragraph 174b and footnote 53 of the National Planning Policy Framework (NPPF) states that:

Planning policies and decisions should contribute to and enhance the natural and local environment by: recognising the intrinsic character and beauty of the countryside, and the wider benefits from natural capital and ecosystem services including the economic and other benefits of the best and most versatile agricultural land, and of trees and woodland.

Footnote 53: Where significant development of agricultural land is demonstrated to be necessary, areas of poorer quality land should be preferred to those of a higher quality. We would also draw to your attention to Planning Practice Guidance for Renewable and Low Carbon Energy (March 2015) (in particular paragraph 013), and advise you to fully consider best and most versatile land issues in accordance with that guidance.

Local planning authorities are responsible for ensuring that they have sufficient information to apply the requirements of the NPPF. The weighting attached to a particular consideration is a matter of judgement for the local authority as decision maker. This is the case regardless of whether the proposed development is sufficiently large to consult Natural England.

Should you have any questions about ALC or the reliability of information submitted with regard to BMV land please refer to Natural England's Guide to assessing Development proposals on Agricultural Land. This document describes the ALC system including the definition of BMV land, existing ALC data sources and their relevance for site level assessment of land quality and the appropriate methodology for when detailed surveys are required. Soil is a finite resource which plays an essential role within sustainable ecosystems, performing an array of functions supporting a range of ecosystem services, including storage of carbon, the infiltration and transport of water, nutrient cycling, and provision of food. It is recognised that a proportion of the agricultural land will experience temporary land loss. In order to both retain the long term potential of this land and to safeguard all soil resources as part of the overall sustainability of the whole development, it is important that the soil is able to retain as many of its many important functions and services (ecosystem services) as possible through careful soil management and appropriate soil use, with consideration on how any adverse impacts on soils can be avoided or minimised. Code of Practice for the Sustainable Use of Soils on Construction Sites.

Consequently, Natural England would advise that any grant of planning permission should be made subject to conditions to safeguard soil resources and agricultural land, including a required commitment for the preparation of reinstatement, restoration and aftercare plans; normally this will include the return to the former land quality (ALC grade).

General guidance for protecting soils during development is also available in Defra's Construction Code of Practice for the Sustainable Use of Soils on Construction Sites, and should the development proceed, we recommend that relevant parts of this guidance are followed, e.g. in relation to handling or trafficking on soils in wet weather.

The British Society of Soil Science has published the Guidance Note Benefitting from Soil Management in Development and Construction which sets out measures for the protection of soils within the planning system and the development of individual sites, which we also recommend is followed.

We would also advise your authority to apply conditions to secure appropriate agricultural land management and/or biodiversity enhancement during the lifetime of the development, and to require the site to be decommissioned and restored to its former condition when planning permission expires.

- 4.1.13 **SC Ecology** Recommends conditions and informatives, to ensure the protection of wildlife and to provide ecological enhancements under NPPF, MD12 and CS17.

I have read the submitted Preliminary Ecological Appraisal (Salopian Consultancy, February 2022), Landscape, Biodiversity & Agricultural Management Strategy (Salopian Consultancy, May 2022) and Biodiversity Net Gain Assessment (Salopian Consultancy, May 2022).

I am happy with the level of survey work and the biodiversity net calculations. I am satisfied that the proposed development will result in biodiversity net gains, including through new hedgerow planting and sowing of meadow seed mix.

It is recommended that conditions are included on the decision notice to cover the following matters:

- Works shall take place strictly in accordance with the Biodiversity and Agricultural Management Strategy
- Provision of bat and bird boxes
- Approval of any external lighting

4.1.14 **SC Trees** Recommends conditions.

I have read the submitted Salopian Consultancy Tree Report and can agree with its findings. Overall the arboricultural impact of this proposed scheme is low. No protected or important amenity trees are to be removed – the site is outside of the Tree Preservation Order covering Eaton upon Tern.

Trees to be removed (18) are all classed as low-grade self-set trees – mainly Goat Willow and mitigation planting is proposed. I note the residents concern that evergreen planting should be included so there is year-round screening. As the new planting is to be native species to encourage biodiversity this is limited, and I note that Holly is already a component for the proposed shrub and hedge planting. Scots Pine could be included as an evergreen tree species.

It is recommended that conditions are imposed to require that tree protection measures are put in place and that a tree specialist is appointed to supervise these measures.

4.1.15 **Shropshire Council's landscape consultant** Recommends conditions.

The LVIA methodology is clear, proportionate, and compliant with the best practice set out in GLVIA3. Any adverse landscape and visual effects are not considered to be significant. The mitigation proposals are appropriate and capable of reducing adverse effects, subject to submission of details on specification and aftercare. The proposals comply with Local Plan policies which protect the landscape and visual amenity. It is recommended that landscape conditions be applied to a grant of planning permission to require that a landscaping scheme is submitted for approval, and that a scheme for replacement of any failures is agreed.

4.1.16 **Ministry of Defence – Defence Infrastructure Organisation** No safeguarding objections.

The Defence Infrastructure Organisation (DIO) Safeguarding Team represents the Ministry of Defence (MOD) as a consultee in UK planning and energy consenting systems to ensure that development does not compromise or degrade the operation of defence sites such as aerodromes, explosives storage sites, air

weapon ranges, and technical sites or training resources such as the Military Low Flying System.

The application site occupies the statutory safeguarding zone(s) surrounding RAF Shawbury. In particular, the aerodrome height and birdstrike safeguarding zones surrounding the aerodrome and is approx. 10.1km from the centre of the airfield.

- 4.1.17 **RAF Shawbury** No comments received.
- 4.1.18 **SC Rights of Way** No comments received.
- 4.1.19 **SC Climate Change Taskforce** Supports the application.

Comments on renewable energy and carbon performance aspects of the proposed development.

The climate crisis is a serious threat to the lives of millions of people globally, nationally and locally. The mitigation of greenhouse gas emissions and adaptation measures to build resilience is now urgent and essential to prevent the worst outcomes. Even if we are successful in mitigating the worst effects, we will continue to experience more pronounced and frequent episodes of extreme weather effects. The much greater frequency of extreme weather events will significantly increase insurance risks and threaten the health, wellbeing and future resilience of our communities and infrastructure.

The Department for Business, Energy and Industrial Strategy – Climate Change Explained has identified the following likely impacts:

- The effects of rising temperatures on the UK
- The effect of warming on rainfall patterns and water supplies
- Changes in the oceans
- The impact of warming on food production
- The impact on ecosystems
- The impact on human health
- Poverty
- The impact of extreme weather events globally

In this context, Shropshire Council's Climate Task Force strongly supports in principle the delivery of additional renewable energy generation infrastructure and capacity in the county as a positive contribution to the policy objectives outlined below. Solar farms have the potential to deliver significant environmental benefits in terms of:

- Decarbonisation of energy supplies
 - "By 2030, 95 per cent of British electricity could be low-carbon; and by 2035, we will have decarbonised our electricity system, subject to security of supply." [British Energy Security Strategy (publishing.service.gov.uk) p6]
 - "The net zero economy will be underpinned by cheap clean electricity,

made in Britain. A clean, reliable power system is the foundation of a productive net zero economy as we electrify other sectors – so we will fully decarbonise our power system by 2035, subject to security of supply.” [net-zero-strategy-beis.pdf (publishing.service.gov.uk) p19]

- Greater energy security
 - “The growing proportion of our electricity coming from renewables reduces our exposure to volatile fossil fuel markets. Indeed, without the renewables we are putting on the grid today, and the green levies that support them, energy bills would be higher than they are now. But now we need to be bolder in removing the red tape that holds back new clean energy developments and exploit the potential of all renewable technologies. Most critically, when we have seen how quickly dependence on foreign energy can hurt British families and businesses, we need to build a British energy system that is much more self-sufficient.” [British Energy Security Strategy (publishing.service.gov.uk) p6]
- Green growth
 - “We also envisage that the renewable energy sector can become a major local industry with significant employment and wealth generation for Shropshire. We have therefore also projected a 30% surplus by 2030 to create an element of power ‘export’ from Shropshire to adjacent industrial regions.” [The Zero Carbon Shropshire Plan p22]

Shropshire Council declared a ‘Climate Emergency’ on 16 May 2019 reflecting the conclusions of the Intergovernmental Panel on Climate Change (IPCC) at that time. Shropshire Council subsequently adopted a Climate Strategy and Action Plan on 17 December 2020 which sets out a range of principles which include:

- Support Clean and Inclusive Growth:
 - a) Our local economy needs to grow while our emissions shrink. The transition to a green economy can provide significant growth opportunities for businesses as well as providing a cleaner and more inclusive future;
 - b) We want the Shropshire economy to shift to one which is zero carbon and abides by circular economy principles, whilst enabling our communities to build and enjoy their prosperity. The choices we make now will determine whether we can deliver on our obligations, and the extent to which we can do so in a way which is also socially progressive;
 - c) We will support skills and training which allow our communities and businesses to benefit from Shropshire’s transition to a low carbon economy.
- Work with others:
 - a) We are on a shared journey and will need to work with others. This will allow us to learn from them and make use of external resources to help us to achieve net carbon zero and manage the effects of extreme climate events.
 - b) We will help establish and support a Climate Action Partnership of

stakeholders and the wider community. The Council will work with the Partnership to provide advice, support and encouragement to our communities, businesses and charitable organisations to help them to mitigate their emissions and adapt to the inevitable impacts of the climate crisis.

- c) The climate crisis is of particular significance for young people who will inherit the consequences of our actions. We will therefore work with schools across the county to ensure that the Climate Emergency is integrated as an issue across the curriculum and provide opportunities for schools and young people to contribute directly to the development and implementation of our Climate Emergency Strategy.
 - d) Throughout the development and implementation of our Climate Emergency Strategy and Action Plan we will be as open as possible in engaging the wider community and provide opportunities for them to contribute.
- Influencing the behaviour of others:
 - a) In addition to direct control of our own Green House Gas (GHG) emissions, we have significant influence over emissions indirectly resulting from our policies, and through our regulatory functions.
 - b) Shropshire Council also has significant influence through its purchasing power. We will put in place measures to assess the carbon footprint of our procurement choices.
 - c) We will lead by example and seek to positively influence the purchasing power or funding allocations of others like the Marches LEP and its members to favour low carbon initiatives and products.

Our vision is for Shropshire Council to become carbon net-neutral by 2030 and assist in the ambition for the whole of Shropshire to become carbon net-neutral in the same year. In addition to this, we aim to be entirely renewable energy self-sufficient as an organisation within the decade.

- The UK Government has committed to a legally binding target of net zero by 2050.
 - “Now is the time the world needs to go further and faster to tackle climate change. The UK is stepping up to that challenge. Here we set out our ambitious strategy – the first of its kind in the world of a major economy - to create new jobs, develop new industries with innovative new technologies and become a more energy secure nation with clean green British energy. At the same time we will reduce greenhouse gas emissions across the economy to reach net zero by 2050.” [net-zero-strategy-beis.pdf (publishing.service.gov.uk) p10]
- National Energy Security Strategy:
 - “Accelerating the transition from fossil fuels depends critically on how quickly we can roll out new renewables.” [British Energy Security Strategy (publishing.service.gov.uk) p16]
 - “With the sun providing enough daily energy to power the world 10,000 times over, solar power is a globally abundant resource. There is

currently 14GW of solar capacity in the UK split between large scale projects to smaller scale rooftop solar.” [British Energy Security Strategy (publishing.service.gov.uk) p19]

- Marches LEP Energy Strategy:
 - “The 2030 Vision within the Marches Local Enterprise Partnership (LEP) Energy Strategy, launched in July 2019, includes an objective for renewable electricity to meet 50% of local demand by 2030. This was confirmed at the Energy Strategy launch as being locally sourced renewables and not derived from national production.” [Microsoft Word - Meeting 50% Marches Power Demand_FINAL - Cover (mea.org.uk) p6]
 - Recent modelling work undertaken by the Marches Energy Agency (2022) <https://mea.org.uk/wp-content/uploads/2022/05/Report-Meeting-the-Marches-Vision-of-50-power-from-local-renewables-by-2030.pdf> suggests that achieving 50% self-sufficiency in renewable power in the Marches would require, as a minimum, an additional 50 large solar farms (40 MW each), together with 625 small scale commercial roof PV (200 kWp) systems, 12 large commercial roof PV (3.811 MWp Lyreco type) systems and 75,000 domestic homes with solar PV by 2030. However, if alternative sources of renewable power such as wind turbines cannot be delivered as envisaged, then achievement of this objective would require at least an additional 120 large solar farms of 40 MW each.
- The Zero Carbon Shropshire Plan
 - “Over the next few years we need to make a rapid transition from natural gas, oil and other fossil fuels to renewable energy sources, including electricity (from wind, solar or hydro-sources), methane from anaerobic digestion, ‘green’ hydrogen, carbon-neutral synthetic fuels or biomass.” [The Zero Carbon Shropshire Plan p22]

Whilst we are planning for renewable energy self-sufficiency as an organisation by 2030, we actively support the community-led Shropshire Climate Action Partnership (SCAP) and have worked with them to commission the mapping of renewable energy potential in the county:

https://zerocarbonshropshire.org/renewable_energy_mapping_project/ and they have identified a need for around an additional 5,000 megawatts (MW) of generating capacity if the whole county is to become self-sufficient in renewable energy. The ambition to utilise this generating capacity is set out in the Marches LEP Energy Strategy which states:

“BEIS energy and emissions projections 2017 forecast national renewable electricity generation making up over 50% of total electricity generation by 2030. The Marches is aiming to contribute to this in kind with renewable electricity to meet 50% of local demand.” [Marches-Energy-Strategy.pdf (marcheslep.org.uk) – p63]

And goes further still by setting a target for the Marches:

“Our new Energy Strategy sets a target of 50 per cent of all electricity to come from renewable sources by 2030 and the creation of 1,000 low carbon jobs.” [Energy - Marches LEP]

The Zero Carbon Shropshire Plan supports the Marches LEP Strategy:
 “Increase electricity generation so that Shropshire can be at least self-sufficient by 2030 using renewable sources and also become an exporter of electricity to generate wealth and employment locally.” [The Zero Carbon Shropshire Plan p23]

And suggests this can be achieved by:

“Create a number of large-scale photo-voltaic arrays (solar farms, PV) and wind farms (wind and PV offer commercial opportunities at similar cost but have different site factors and a mix of, for example, 1/3 PV and 2/3 wind offers the opportunity to maintain better continuity of supply and balance grid loads).” [The Zero Carbon Shropshire Plan p23]

The electricity distribution grid in Shropshire is heavily constrained and this means that opportunities to obtain a grid connection to allow power to be exported are very limited and are unlikely to improve. This significantly restricts where solar farms can be located, together with our ability to generate more renewable energy, which makes a crucial contribution to reducing carbon emissions and tackling climate change.

Application Specific Comments:

It’s recognised by the Climate Task Force that the development would contribute 49MW towards the approximate total of 5,000MW required to make the county self-sufficient in renewable energy. According to Greenhouse gas reporting: conversion factors 2022 – UK electricity:

[https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/1083854/ghg-conversion-factors-2022-condensed-set.xls]

This development would be expected to produce an approximate carbon saving of 9.5ktCO₂.

4.1.20 **Ramblers** No comments received.

4.2. -Public Comments

4.2.1 The application has been advertised by site notice, and also in the local press. Objections have been received from 19 members of the public. Representations of support have been received from 18 members of the public.

4.2.2 In addition a petition has been received which has been signed by 38 residents. The petition states that the signatories object to the application but it does not specify the grounds of objection, therefore limited weight can be given to this.

4.2.3 Summary of reasons for objection:

- Unclear whether the panel height is 3 metres or 3.2 metres
- Panel height is excessive; inadequate screening
- Screening is ineffective in winter; evergreen trees required
- Will spoil enjoyment of property, less than 100m from the boundary
- Adverse impacts from security fencing and lights and security cameras
- Will spoil all aspects of country life
- Too close to houses

- Site is out of proportion to the environment it is in
- Unclear how landscaping maintenance would be enforced
- Proposed plans do not meet criteria of 5% of land being set aside and maintained as Ecological Focus Area
- Vast majority of other solar farms are smaller
- Panels should be smaller
- Insufficient consideration of design of substation; should be sited further away from houses
- Insufficient evidence of need to use agricultural land rather than brownfield
- Poor condition of highway to be used by construction traffic; will deteriorate more with additional HGVs
- Inadequate site access track
- Additional traffic impacts from importing water for cleaning
- No road network improvement plan
- Unclear how routing plan would be enforced
- Conflict with model aircraft club use of access route
- Glint and glare assessment does not take account of upper storeys of houses, only up to 2 metres
- Glint and glare assessment has wrongly shown a garage which has now been demolished and replaced with a house
- Inadequate glint and glare assessment
- Impact on pilots from glare from panels
- Adverse impact on public rights of way due to glint and glare; negative impact on wellbeing and mental health if paths cannot be used
- Potential for contamination of water supply if cleaning agent is used in washing of panels
- Washing water likely to be provided by approval of a borehole rather than a bowser
- Difficult and expensive to restore land to a useful condition when it becomes obsolete
- No clear restoration plan
- No security for any restoration works
- Security concerns
- Need to include a net statement of carbon benefit, not a gross maximum estimate
- No local economical or community benefits; no lower energy prices
- Will not protect wildlife
- Insect problem will get worse
- Will not help the litter and dead livestock issues will get
- Electromagnetic fields emitted from solar farm disrupt natural habitat
- Resultant radiation can kill insects and other small creatures
- Proximity to residents is a significant risk to health; radiation emissions can lead to headaches, fatigue, skin rashes and sleep disturbances; increased risk of cancer
- No benefits in terms of improved reliability of energy supply, increased local jobs or reducing carbon footprint
- No fire risk assessment
- No assessment of risk to health; insufficient research to justify risking the

- health of an entire village; Council will be at risk of litigation if health issues materialise, and deemed to be negligent for not paying due diligence
- Inadequate publicity
 - Permissive path proposal was an 'ignored' planning requirement of the chicken farm
 - Proposed footpath would just go around an ugly industrial site
 - Would take away land that may need to be used for emergency landing of helicopters
 - Injury to balloon passengers if a balloon needed to land
 - Land should be retained as a backup airfield given current security issues
 - Insufficient evidence on need for the use of agricultural land
 - Panels should be provided on roofs instead
 - Noise impacts
 - Construction traffic impacts
 - Inefficient means of energy generation
 - Will produce carbon when the panels are finished with whilst being dismantled and destroyed
 - Landowners should donate a significant amount each year to upkeep of villages, local charities and care homes
 - Exposure to Electromagnetic Fields radiation causes depression, anxiety and insomnia according to WHO; and other health issues
 - Houses could be fitted with free shields
 - Unclear whether there are any alarms on the panels
 - Should retain the land for food production to ensure food security
 - May lead to ground contamination
 - Impact on aquifer from potential pollutants
 - No plan for monitoring of water quality
 - Water to be used for cleaning of panels may contain bacteria which will go into soils and water
 - Panels give off dangerous chemicals for the first two years which are highly toxic and land should not be grazed or ranged to prevent contamination in the food chain
 - Use of high quality grade 3a agricultural land, contrary to public policy

4.2.4 Reasons cited in letters of support:

- Will utilise a brownfield site
- Makes good use of land which is difficult to till and work due to broken up land strips, metals and copper wire from previous land use
- Routing proposals are satisfactory
- Will be suitably screened
- Will bring jobs to the area
- Land will still be used for grazing of farm animals
- Solar is one of least impactful renewable energy schemes
- Biodiversity will improve dramatically
- Benefit from additional planting
- Cleaning of panels uses de-ionized water, not unnatural chemicals
- Permissive right of way is a benefit and asset to the community
- Will supply enough green renewable electricity to supply Market Drayton and

- surrounding villages for 40 years
- Land is not prime agricultural land
- Will help to address climate change emergency
- Land can still be used for free range poultry and sheep grazing so still aids country's need for food security
- Solar power is quiet
- Little traffic once installed
- Would help towards Paris agreement to limit global warming
- No heritage assets or conservation area would be affected
- May reduce amount of farm traffic through the village which would be less damage to roads and safer conditions for walkers, cyclists and horse riders
- Site is already a heavily industrialised area
- New fencing will improve the appearance
- Increasing area of woodland will benefit landscape and reduce wind
- Would help towards becoming energy self-sufficient
- Diversification of a farming enterprise
- Impact on watercourse
- Impact on pumping station
- Crops on the site are often waterlogged adjacent runways so there is limited prospect of acceptable crop yields resulting in variable yields and profitability

5.0 THE MAIN ISSUES

- ### 5.1
- EIA Screening
 - Principle of development
 - Site selection and agricultural land quality considerations
 - Siting, scale and design; and impact on landscape character
 - Historic environment considerations
 - Residential and local amenity considerations
 - Highways and access considerations
 - Ecology issues
 - Drainage and flood risk considerations
 - Other matters
 - Planning balance and conclusion

6.0 OFFICER APPRAISAL

6.1 EIA Screening

- #### 6.1.1
- The proposal falls within one of the categories of development which are listed in the Town and Country Planning (Environmental Impact Assessment) Regulations 2017 (as amended). Specifically it falls within Category 3(a) of Schedule 2 to those Regulations, i.e. industrial installations for the production of electricity, steam and hot water, and, as the area of the development exceeds 0.5 hectare, the proposal is classed as Schedule 2 development under those regulations. In connection with this the Council has issued a screening opinion to confirm whether Environmental Impact Assessment (EIA) is required to be undertaken by the applicant. The screening opinion was issued in October 2021 (ref. 21/01594/SCR) and confirms that, having had regard to the details of the scheme in relation to national guidance on EIA screening, the proposed development would not be likely to have significant

effects on the environment by virtue of factors such as its nature, size or location. Therefore EIA is not required.

6.2 Principle of development

- 6.2.1 Applications for planning permission should be determined in accordance with the Development Plan unless material considerations indicate otherwise. The Development Plan policies relevant to the current proposal are discussed below. In addition to these, the National Planning Policy Framework (NPPF) sets out the Government's planning policies and this is a material consideration which should be taken into account in the determination of this application. Further national policy guidance is provided by National Planning Policy Guidance (NPPG). A draft Local Plan to replace existing adopted policies is being prepared and has been submitted to the Secretary of State for examination. Given the stage of the draft plan it is considered that the draft policies within it can be given limited weight.
- 6.2.2 Development Plan policy on renewable energy: Strategic Objective 9 of the adopted Core Strategy promotes a low carbon Shropshire, including through the generation of energy from renewable sources. Core Strategy Policy CS8 positively encourages infrastructure, where this has no significant adverse impact on recognised environmental assets, that mitigates and adapts to climate change, including decentralised, low carbon and renewable energy generation, and working with network providers to ensure provision of necessary energy distribution networks.
- 6.2.3 National planning policy and guidance on renewable energy: The NPPF states that applicants do not need to demonstrate the overall need for renewable or low carbon energy, and states that such applications should be approved if its impacts are or can be made acceptable. Planning Practice Guidance on Renewable and low carbon energy sets out the particular planning considerations that apply to solar farm proposals. It states that increasing the amount of energy from renewable and low carbon technologies will help to make sure the UK has a secure energy supply, reduce greenhouse gas emissions to slow down climate change and stimulate investment in new jobs and businesses.
- 6.2.4 Shropshire Climate strategy: The Council's Climate Change Taskforce seeks to ensure a coordinated approach across Shropshire to addressing the climate change challenge. The Taskforce has advised that the mitigation of greenhouse gas emissions and adaptation measures to build resilience is now 'urgent', and 'strongly supports in principle' the delivery of additional renewable energy generation infrastructure and capacity. They note that solar farms have the potential to deliver 'significant environmental benefits'. These benefits include the decarbonisation of energy supplies; greater energy security; and green economic growth. The development of large-scale solar farms such as the one proposed would contribute towards the Government's legally binding target of becoming carbon net zero by 2050. The proposal is also consistent with the principles of the Climate Strategy and Action Plan which was adopted by Shropshire Council in 2020.

6.2.5 The solar farm would generate enough renewable electricity to power 16,600 typical households per annum. Officers consider that the proposal would provide significant environment benefits and an important contribution towards meeting local and national targets on reducing harmful carbon emissions. In principle the proposal is consistent with and supported by both local and national planning policies on renewable energy and carbon reduction.

6.3 Site location and agricultural land considerations

6.3.1 Countryside location considerations: The proposal would be located within open countryside and, whilst Core Strategy policy CS5 seeks to control development in these areas, it provides support for required infrastructure which cannot be accommodated within settlements. The potential impacts of the proposal are discussed below, however Development Plan policy does not restrict the installation of a ground-mounted solar farm on principle.

6.3.2 Agricultural land implications: The site is currently predominantly in agricultural use. Approximately 63% of this agricultural land is used as ranging area for poultry as part of the free range egg production unit. These areas are also periodically grazed by sheep for the purpose of grass maintenance. The remainder of the agricultural land is used for arable cropping.

6.3.3 It is the intention that should the solar farm scheme go ahead then the existing ranging areas would continue to be used for this purpose and also for sheep grazing alongside the panels. The existing arable areas would be used for sheep grazing. The affected land would therefore remain in agricultural use, and there would be no loss of agricultural land, albeit that approximately 37% of the land would be used for grazing instead of arable.

6.3.4 Agricultural land quality considerations: Agricultural land is classified into grades with Grade 1 being of excellent quality and Grade 5 being of very poor quality. The best and most versatile (BMV) agricultural land is that which is classed as Grade 1, 2 or 3a. An assessment of the agricultural land quality of the site has been undertaken, and this has included the sampling of 49 soil cores taken from across the site. This assessment has identified that, of the 48 hectares site, 39% is Grade 2, 45% is Grade 3a, 5% is Grade 3b, and 12% is Grade 4. Therefore, with rounding, 83% of the site is classed as BMV agricultural land.

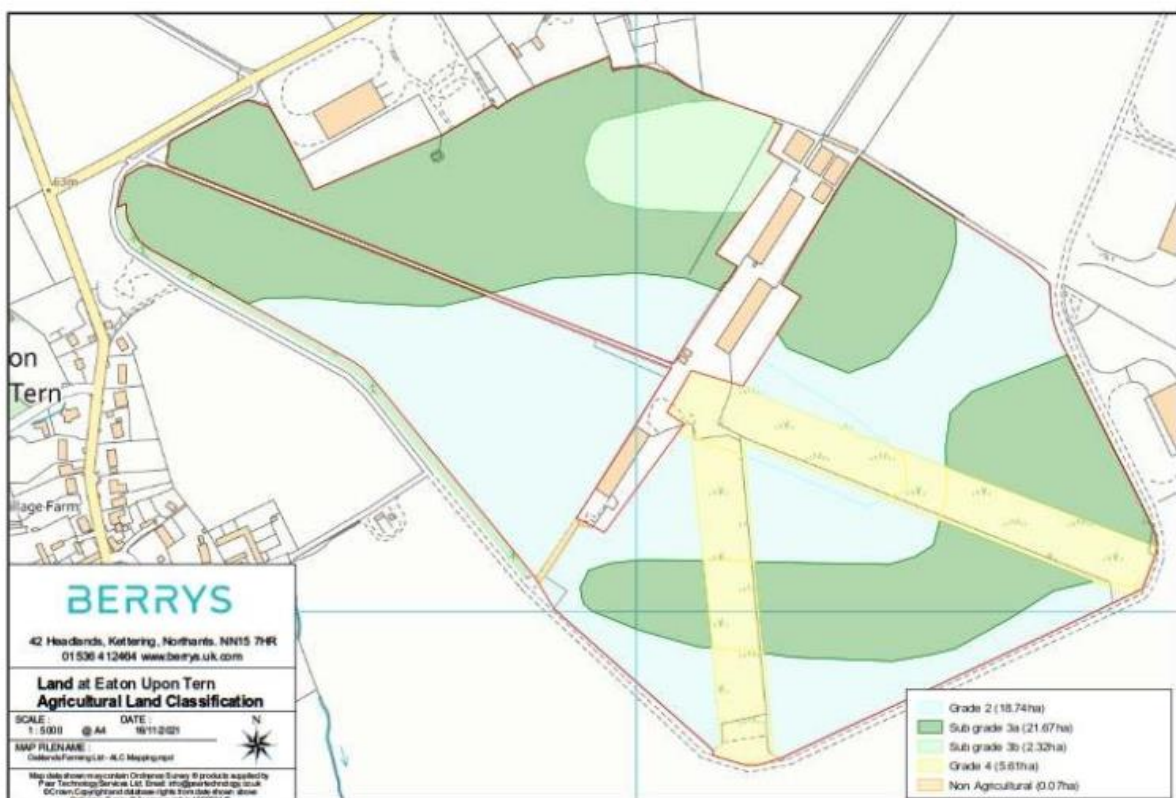
6.3.5 Core Strategy policy CS6 requires that development proposals make the most effective use of land and safeguards natural resources including high quality agricultural land. The NPPF states that the economic and other benefits of the best and most versatile (BMV) agricultural land should be taken into account in planning decisions (para. 174). It states that where significant development of agricultural land is demonstrated to be necessary, areas of poorer quality land should be preferred to those of a higher quality (footnote 58). In relation to solar farms, Planning Practice Guidance advises that local planning authorities should encourage the effective use of land by focussing these developments on previously developed and non agricultural land, provided that it is not of high environmental value (para. 013). The guidance advises that, in considering solar farm proposals

located on greenfield sites, local planning authorities should consider whether:

- the proposed use of any agricultural land has been shown to be necessary and poorer quality land has been used in preference to higher quality land; and
- the proposal allows for continued agricultural use where applicable and/or encourages biodiversity improvements around arrays.

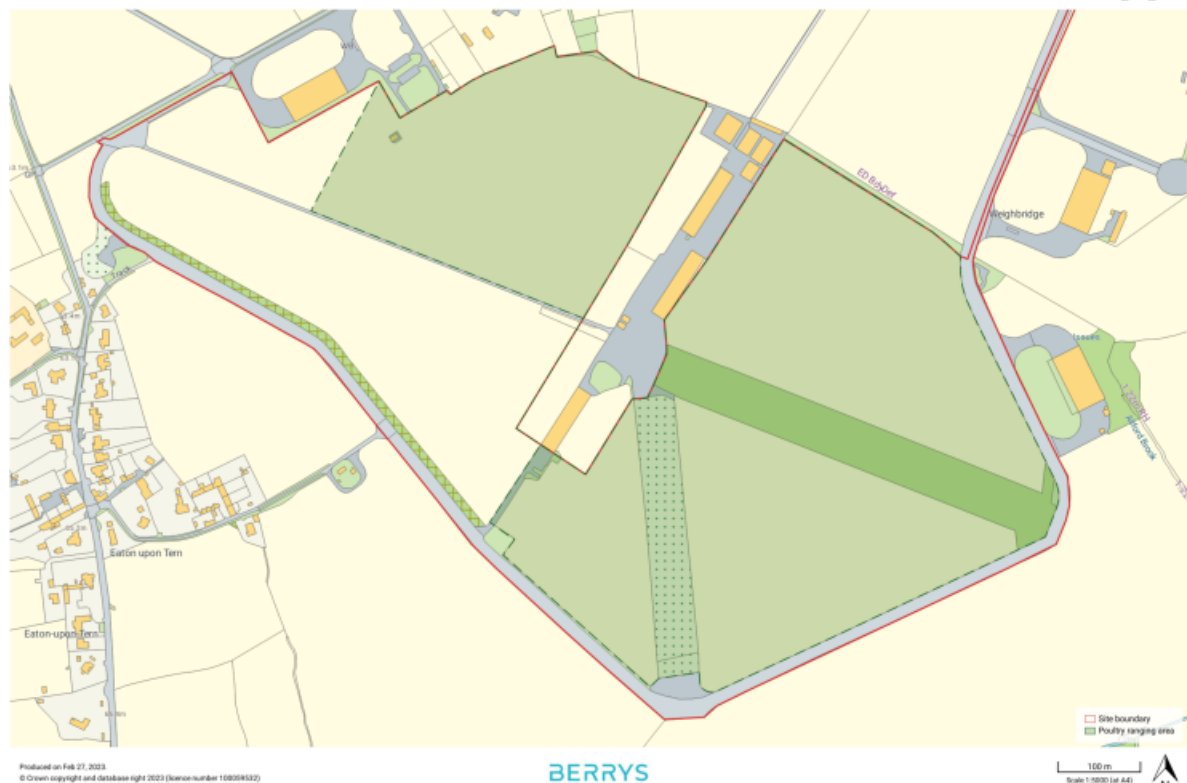
6.3.6 The Guidance also makes reference to a Ministerial Speech made in April 2013 and a Written Ministerial Statement (WMS) made in March 2015. In relation to the former, this stated that where solar farms are not on brownfield land, the industry should be looking at sites on low grade agricultural land where grazing can take place in parallel with generation. In relation to the WMS this states that meeting our energy goals should not be used to justify the unnecessary use of high quality agricultural land. It states that any proposal for a solar farm involving BMV agricultural land needs to be justified by the most compelling evidence.

6.3.7 The mix of grades of agricultural land quality across the site is not uncharacteristic of the wider area. In terms of the site itself the different grades are spread across the site, as shown on the plan below.



6.3.8 The applicant advises that at present 63% of the site is used as ranging area for the poultry associated with the egg-laying business. The remainder, i.e. 37%, is used for arable land. Whilst the part of the site which is BMV agricultural land would be capable of being used for arable crop growing, officers recognise that at present the majority of it is not being used for this purpose, and instead is being used for

ranging by chickens. The ranging area is as shown on the plan below, and this confirms that this area includes a large proportion of the BMV agricultural land at the site. It is expected that this would continue to be the case due to the ranging requirements of the egg production business, and the established nature of the business.



- 6.3.9 As noted above, national planning policy states that the economic and other benefits of the best and most versatile (BMV) agricultural land should be taken into account in planning decisions, and expresses a preference for the use of poorer quality agricultural and over that of higher quality. In relation to the main considerations as set out in national planning guidance, these are discussed below.
- Whether the use of agricultural land has been shown to be necessary;
 - Whether poorer quality land has been used in preference to higher quality land; and
 - Whether the proposal allows for continued agricultural use and/or encourages biodiversity improvements around arrays.

- 6.3.10 Whether the use of agricultural land has been shown to be necessary: As noted above, Officers consider that ground-mounted solar farms are supported in principle under national and Development Plan policy as a means of contributing towards targets to reduce carbon emissions and increase the use of renewable energy sources. Opportunities to site such developments on non-agricultural land will be limited due to the paucity of such sites. Whilst the use of non-agricultural land for solar farms would be supported in principle as well, Officers consider that

the use of agricultural land for solar farms is justified in principle.

6.3.11 Whether poorer quality land has been used in preference to higher quality land:

The application states that the key site suitability requirement for solar farms is access to the local electricity distribution network. This is reflected in the comments of the Council's Climate Change Taskforce who have highlighted that opportunities for solar farms to obtain a connection to the national grid are very limited and are unlikely to improve. They have advised that this 'significantly restricts' where solar farms can be located. The availability of a grid connection with suitable capacity and which is located within a financially viable distance from the site is a significant factor in the site selection process. The current proposal has the offer of a connection to the Hortonwood substation to the south of the site. Agricultural land quality within this vicinity is of a similar mix to that found at the application site. Within the site itself, it is noted that both the higher quality and the poorer quality land is proposed for the solar farm. Therefore this consideration has not been met.

6.3.12 Whether the proposal allows for continued agricultural use and/or encourages biodiversity improvements around arrays.

It is proposed that the site would continue to be used for agriculture following construction of the solar farm. Part of the site would continue to be used as the ranging area for poultry, and this area and the remainder of the site would be used for sheep grazing. In addition the proposal would result in significant biodiversity improvements through the conversion of existing arable land to grassland using a meadow seed mix. This consideration would therefore be met.

6.3.13 The above considerations are discussed further in the planning balance section below.

6.4 Siting, scale and design; and impact on landscape character

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

6.4.2 The application site is relatively flat. A number of poultry units and associated buildings occupy the central part of the site, situated on the hardstanding of a former runway that passes through this section. Beyond the site boundary are large agricultural warehouse and hangar buildings. There is a tree and shrub belt which runs along the southern boundary of the site for a length of approximately 600 metres, beyond which is the village of Eaton-upon-Tern. There are a number of private access tracks which pass through and around the southern and eastern boundaries of the site. These provide access to farmland and buildings on the former airfield.

6.4.3 A Landscape and Visual Impact Assessment (LVIA), undertaken by a Chartered Landscape Architect, has been submitted with the planning application. This has

assessed the likely impact of the proposals both immediately following the construction of the solar farm and also after 3-5 years once the landscape mitigation planting has developed. This mitigation proposes the planting of approximately 0.6 hectare of native trees and shrubs and 2.5km of native species hedgerow around sections of the site's perimeter; and grass and wildflower seeding. The Council's landscape consultant has reviewed the LVIA and considers that it is clear, proportionate and compliant with best practice. They consider that the findings of the LVIA are 'reliable and can be supported'.

- 6.4.4 Landscape effects: The LVIA states that after 3-5 years following landscape mitigation planting the effects on landscape elements and character would range between 'slight adverse' and 'slight beneficial'.
- 6.4.5 Visual receptors: The LVIA has assessed the effects of the development on visual receptors, which include users of the public rights of way, the highway network, and residents in the surrounding area. It takes into account the significant additional landscape screening being proposed as part of the mitigation plan referred to above. Of note, it states that there would be 'moderate adverse' effects on some visual receptors. Mostly, these effects would all reduce to 'negligible' or 'slight adverse' once the mitigation planting has developed. The exception is the path that runs through the central part of the site. However it should be noted that it is proposed that this path is diverted so that it would run around the southern side of the site.
- 6.4.6 In terms of the nearest residential receptors which are to the south-west of the site, the LVIA acknowledges that some residents are likely to obtain filtered views, particularly in winter, of the boundary fence and the first rows of panels. These views would be at a distance of approximately 100 metres.
- 6.4.7 The LVIA concludes that no significant landscape or visual effects, or cumulative effects, have been identified. The Council's landscape consultant considers that the mitigation proposals are appropriate and that the proposals comply with relevant Development Plan policies. Officers consider that, subject to the imposition of conditions regarding submission of a detailed landscaping scheme, the proposed development would not result in significant impacts on the landscape or on visual amenity.
- 6.4.8 Connection to substation: The solar farm would connect to the Hortonwood substation which is located to the south of the site. This element of the scheme is not included in the planning application however the applicant has confirmed that these cabling works would be underground. If such works require planning permission then a separate application would need to be made for this.
- 6.4.9 Trees and hedgerow: The proposal would involve the removal 18 trees from within the site. The Arboricultural Appraisal has identified that these are young to semi-mature self-set trees of category C, i.e. of low quality and value. The Council's Tree officer has confirmed that no protected or important amenity trees would be removed, and has advised that the arboricultural impact of the proposed

development is low. These trees are self-set and were not planted for any ammonia mitigation purposes in relation to the egg-laying units, and their loss would not contravene any planning requirements. It is considered that the proposed landscape mitigation measures, which include the planting of approximately 0.6 hectare of new trees and approximately 2.5km of hedgerow, more than compensates for the tree removal.

6.5 Historic environment considerations

6.5.1 Core Strategy policies CS6 and CS17 and SAMDev Plan policies MD2 and MD13 require that development protects, restores, conserves and enhances the natural, built and historic environment and is appropriate in scale, density, pattern and design, and that harm or loss is avoided. Section 66 of the Planning (Listed Buildings and Conservation Areas) Act 1990 requires that, in considering whether to grant planning permission which affects the setting of a Listed Building, the local planning authority shall have special regard to the desirability of preserving the setting. The NPPF advises that a balanced judgement will be required in considering impacts on non-designated heritage assets, having regard to the scale of any harm or loss and the its significance.

6.5.2 Built heritage: A Heritage Impact Assessment (HIA) has been carried out as part of the planning application. The HIA identifies that the site forms part of the former RAF Childs Ercall/RAF Peplow which is considered to be a non-designated heritage asset. It considers however that there has been a loss of significance of the asset due to the loss of the function of the airfield and the fragmentation of the site. The nearest designated heritage assets are a pair of Grade II listed buildings within Eaton-upon-Tern which are more than 300 metres to the south-west of the site. Potential impacts on this and other listed buildings in the wider area have been included in the HIA. The HIA concludes that the proposed development across the majority of the site would result in no change in views from the heritage assets due to a general lack of inter-visibility, as a result of local topography, sparsity of development, and distance.

6.5.3 The Council's Conservation Officer considers that the existing boundary hedgerows and trees and the proposed mitigation planting is sufficient to ensure that no harm would be caused to the heritage assets, and has raised no objection to the proposals.

6.5.4 Archaeology: The Council's Archaeology team consider that the site is likely to have low archaeological potential and have recommended that a condition is imposed to require that a programme of archaeological work is undertaken. This is included in Appendix 1 below.

6.6 Residential and local amenity considerations

6.6.1 Core Strategy policy CS6 seeks to safeguard residential and local amenity.

6.6.2 Noise: It is not anticipated that the solar farm would result in adverse levels of noise for local land users or at residential properties in the local area, particularly given the nature of the proposals. Nevertheless the conditions recommended by

the Council's Regulatory Services team to minimise noise and disturbance during the construction phase can be imposed should permission be granted. Additional controls during the construction phase are included in the Construction Traffic Management Plan.

- 6.6.3 Glint and glare: Solar panels have the potential to create glint and glare from reflection of the sun or the sky. A glint and glare assessment has been undertaken as part of the application, by environmental consultants Neo Environmental. This has considered ground-based receptors within 1km of the site and a 30km study area for aviation receptors. It is noted that the Ministry of Defence has raised no objections in relation to the impact of the proposals on the safeguarding zone surrounding RAF Shawbury.
- 6.6.4 For residential receptors the assessment is based upon an observer height of 2 metres, i.e. a typical height for a ground-floor window. Officers consider that this is standard for these types of assessment as this would typically relate to the most occupied floor throughout the day, i.e. when impacts may be more likely. The report states that there would be 'high' glint and glare impacts at three dwellings and 'low' impacts at four, with none at the other twelve. It also predicts that there would be 'high' impacts at three of the thirteen road receptors that were assessed. No impact on trains or aviation assets is predicted. The report states that, for static receptors such as houses, a 'high' impact is one where there would be solar reflection of over 30 minutes per day.
- 6.6.5 The report sets out the assumptions that have been made in the assessment. These include an assumption that there would be clear skies at all times, and the assessment does not take into account effects such as cloud cover, etc. which may screen the sun. As a result of this, the report suggests that the assessment overestimates the number of minutes of glint and glare that are possible at each receptor, and presents a worst-case scenario.
- 6.6.6 To address these impacts the report states that mitigation measures are required. These include the planting of hedgerows along the western, southern and eastern boundaries of the proposed development; and the management of these to a height of at least 3-4 metres. This planting is included on the submitted Landscape Mitigation Plan. With this mitigation in place the report states that glint and glare impacts would reduce to 'none'.
- 6.6.7 Officers do not have any evidence to dispute the methodology or findings of the glint and glare assessment, and consider that the mitigation measures put forward would satisfactorily address potential impacts once the planting has established. However, until the landscaping has taken effect there would be expected to be an impact on some receptors from glint and glare. This would be for a relatively short period of time, however in order to minimise this period it is considered that the mitigation planting should be put in place at the earliest opportunity, prior to the commencement of construction works. A condition to require this is included in Appendix 1.

- 6.6.8 Health risks: Concerns have been raised through public representations regarding the health risks of solar farms. There is no information in national planning policy or guidance to suggest that this should be a particular consideration in solar farms application, and no evidence has been put forward that the proposal would result in adverse health risks.
- 6.6.9 Decommissioning: Planning Practice Guidance on renewable energy recognises that solar farms are normally temporary structures and that planning conditions can be used to ensure that the installations are removed when no longer in use and the land is restored to its previous use (para. 013). A condition can be included on the decision notice if permission is granted to require that the panels are removed at the end of the temporary 40 year period and that the land is restored in accordance with a decommissioning and site reinstatement scheme to be approved.
- 6.7 Highways, access and public rights of way considerations**
- 6.7.1 Core Strategy policy CS6 requires that development is designed to be safe. The NPPF seeks to ensure that safe and suitable access can be achieved and that any significant impacts on the transport network can be cost effectively mitigated.
- 6.7.2 Traffic, access and routing: During the operational phase, i.e. once the solar farm has been constructed, any maintenance vehicles would enter the site via the same access as that used for the poultry units and utilise the same internal track. It is considered that this track is suitable for this use. Traffic to the site during the operational stage would number approximately 12 per year by van and 4x4 type vehicles as part of ongoing maintenance. In addition to this there would be a maximum of three HGVs to the site per annum, i.e. 6 movements, associated with panel cleaning. These would comprise two water delivery tankers and a HGV to transport tractors to tow the water containers. It is not considered that the access arrangements or type and level of operational traffic raise any significant concerns.
- 6.7.3 The construction phase would last approximately 8 months. Deliveries would be made by HGVs including articulated vehicles. The submitted Transport Statement estimates that there would be an average of 4.3 two-way HGV movement per day, with a peak of 6 two-way movements during the middle phase of the programme. It is proposed that construction traffic would enter the site via an existing access point from the Newport Road to the north. They would then utilise an existing track which runs along the eastern and southern sides of the former airfield. This is considered to be appropriate for use. A traffic routing plan has been submitted to confirm that construction traffic would not pass through Childs Ercall or Eaton-upon-Tern. Officers consider that a routing arrangement would be beneficial in order to minimise the potential highways impacts and local disturbance from construction vehicles passing through these villages. It is considered it would be appropriate for a planning condition to be imposed to require that details of how construction traffic would be managed so that it avoids Childs Ercall and Eaton-upon-Tern is submitted for approval. This routing plan should include details of how all construction delivery drivers will be informed of the approved route; and the signage to be erected at appropriate places notifying drivers of the route to be taken and/or not to be taken. A recommended condition is included in Appendix 1. It is considered

that this would be a proportionate mechanism for managing construction traffic routing taking into account the limited maximum daily HGV levels and the temporary nature of the construction phase. No objections have been raised by the Council's highways team and officers consider that the access and routing arrangements are satisfactory subject to conditions.

6.7.4 Public rights of way: As noted above, there are two public rights of way which cross the site. As submitted the proposed development would prevent the use of these paths. However these are not through routes and they terminate within the site. The proposal does not propose to accommodate the paths within the layout. Instead it is proposed that an application to formally divert these paths is made so that they can connect with other public rights of way in the area. This would improve the rights of way network in this area. The planning case officer considers that this is a benefit of the scheme. Nevertheless it is acknowledged that the diversion of the rights of way would be a separate process which would need to be pursued separately to the current planning application. An informative note can be added to the decision notice to advise that the public rights of way need to remain open for use until such time as they are diverted. Irrespective of this, in order to ensure that the alternative path route is provided as proposed, a condition can be imposed to require that this new path is provided as a minimum as a permissive path. The Council's Rights of Way team had not provided any comments on this aspect of the proposals at the time of writing this report, and any comments that they offer will be reported to Members.

6.8 Ecology issues

6.8.1 Core Strategy policy CS17 (Environmental Networks) seeks to protect and enhance the diversity, high quality and local character of the natural environment, and to avoid significant adverse impact on environmental assets. SAMDev Plan policies MD2 and MD12 require that development enhances, incorporates or restores natural assets. Para. 174 of the NPPF states that development should contribute to and enhance the natural environment by minimising impacts on and providing net gains for biodiversity.

6.8.2 The application is supported by an ecological report which includes the findings of an extended phase 1 survey. The Council's ecologist has confirmed that the level of survey work is appropriate.

6.8.3 Protected species: The ecological report notes that the likelihood of encountering Great Crested Newt is very low given the distance from the nearest ponds, sub-optimal habitat, lack of local records, and partial barriers. The report states that no evidence of other protected species was identified. It concludes that no significant impacts upon protected species are likely.

6.8.4 Biodiversity implications: The application site comprises pasture land, arable land and hardstanding which has relatively low ecological value. The proposed removal of the self-set trees from within the site would be offset by new tree and hedgerow planting. The application includes a Biodiversity Net Gain assessment, based on Natural England's guidance, to compare the site's existing ecological interest with

what would be created as part of the proposals. Once the relevant provisions of the Environment Act 2021 become law, which is expected to be later this year, planning applications will be required to include a 10% net gain in biodiversity. The solar farm proposal would result in 18 hectares of 'low' condition arable land being converted to 'good' condition grassland. In addition, woodland blocks would be planted around the site's perimeter. These ecological enhancements would result in a 27.2% increase in biodiversity, i.e. significantly more than would be required under the Environment Act. As a result of the planting of 2.45km of new hedgerow there would also be a more than 100% increase in linear features compared to the present. It is considered that these ecological enhancements represent a significant benefit of the proposal.

- 6.8.5 The Council's ecologist has raised no concerns with the proposals and the conditions that have been recommended, which include the requirement to provide bat and bird boxes, obtain prior approval to any external lighting, and adherence to the Biodiversity and Agricultural Management Strategy, can be added to the decision notice if permission is granted. Subject to this it is considered that the proposed development complies with those policies referred to above.

6.9 Flood risk, drainage and contamination considerations

- 6.9.1 Core Strategy policy CS18 seeks to reduce flood risk and avoid adverse impact on water quality and quantity. SAMDev Plan policy MD2 requires that developments incorporate sustainable drainage techniques into site design.

- 6.9.2 The application includes a Flood Risk Assessment (FRA) as the site area is greater than 1 hectare. The majority of the site lies within Flood Zone 1 (low risk). A small area at the eastern side of the site lies within Flood Zones 2 (medium risk) and 3 (high risk). The proposed buildings would not be located within these latter two zones, and the presence of the panels would not affect flood storage capacity given that they would be above flood levels. The Drainage Strategy advises that the internal access roads would be constructed using permeable materials. The Council's drainage team raise no objections to the proposal.

- 6.9.3 The Council's Environmental Protection team has identified that part of the site where the substation would be sited has been used for the storage of a fuel tank. They have noted that the site overlays a principal aquifer which is particularly vulnerable to the presence of contamination. They advise that further assessment of contaminant risks is required and that it is appropriate for this to be dealt with via a planning condition which would require that a site investigation report is submitted for approval as part of a wider remediation strategy if required.

- 6.9.4 Public representations regarding potential contamination of groundwater and private water supplies from runoff from cleaning of panels are noted. The panels would be washed using de-mineralised water, with no chemicals, and therefore there would be no risk of contamination of groundwater.

6.10 Other matters

- 6.10.1 In relation to other matters raised through public representations:

- Ecological Focus Areas relate to a scheme run by Defra to require that arable land includes areas beneficial to the climate and the environment; this scheme is separate to the planning regime, however it should be noted that the current application would provide a 27.2% increase in biodiversity
- The loss of land which may be required for emergency landing of balloons or helicopters is not considered to be a significant concern; other open land surrounds the site
- The applicant has confirmed that the developers will be offering a Community Benefit to Stoke-upon-Tern and Childs Ercall Parish Councils comprising a one-off payment; this payment is being offered separately to the planning application; officers do not consider that it constitutes a material planning consideration in favour of the proposal, and would advise that Members should give it no weight in their consideration of this application

7.0 Planning balance and conclusion

- 7.1 The proposed solar farm at the former airfield at Eaton-upon-Tern would generate renewable electricity and provide an important contribution towards reducing carbon emissions which is fully in tune with national government planning policy and Development Plan policy, and wider objectives. The proposed development includes a substantial landscaping scheme. This would more than compensate for the proposed loss of some trees from the site. A condition can be imposed to require that hedgerow planting is undertaken prior to the commencement of construction works, and it is considered that this would provide appropriate mitigation for any potential impacts from glint and glare and ensure that there would be no harm to heritage assets. The planting and other works would also provide a biodiversity net gain at the site of 27.2% which should be given significant weight.
- 7.2 The proposal would be significant in size however given the topography of the site, existing and proposed landscaping, and its siting in relation to sensitive receptors, it is not considered that it would have significant adverse impacts on the landscape or on visual amenity. Vehicle numbers during the operational phase would not be significant, and impacts on the highway network during the construction phase can be satisfactorily controlled through a Construction Traffic Management Plan and routing plan. The proposal would improve connectivity of the public paths network by linking up paths where at present there are dead ends. Issues relating to potential impacts from contamination in relation to the use of part of the site for fuel tank storage can be addressed by planning condition, and the cleaning of panels does not pose significant risks to groundwater pollution as it would be carried out using de-mineralised water.
- 7.3 The majority of the proposed development would be located on BMV agricultural land and would result in the loss of approximately 18 hectares of arable land for the 40 year duration of the solar farm. This is a negative aspect of the scheme. However whilst there is a preference under national planning guidance for solar farms to use poorer quality land, this is not a policy requirement. Members should note that planning permissions elsewhere in the county for solar farms have involved substantial areas of BMV land. The NPPF states that the economic and other benefits of the best and most versatile (BMV) agricultural land should be

taken into account in planning decisions. Officers consider that the fact that at present approximately two thirds of the BMV agricultural land at the site is not being used for arable cropping is a relevant factor, particularly when weighing up these 'economic' benefits. In addition the fact that the proposal would not impact on the existing egg-production unit as its required ranging area would be able to co-exist with the solar panels is a benefit of the proposal. Officers consider that the temporary loss of availability of some BMV agricultural land is outweighed by the benefits of providing significant renewable energy and improving biodiversity at the site.

7.4 Overall and on balance, officers consider that the benefits of the solar outweigh its impacts. The proposal is an acceptable use of land and is in line with Development Plan policy. It is recommended that planning permission is granted subject to the conditions set out in Appendix 1 below.

8. Risk Assessment and Opportunities Appraisal

Risk Management

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

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

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

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.

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. Financial Implications

There are likely financial implications of 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 dependant on the scale and nature of the proposal. Local financial considerations are capable of being taken into account when determining this application – in so far as they are material to the application. The weight to be given to this issue is a matter for the decision maker.

10. Background

Relevant Planning Policies

Central Government Guidance:
National Planning Policy Framework

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

RELEVANT PLANNING HISTORY:

NS/05/00317/FUL Erection of unit (No. 2) for free range egg production CONAPP 25th May 2005
NS/05/00318/FUL Erection of unit (No.3) for free range egg production CONAPP 25th May 2005
NS/05/00319/FUL Erection of unit (No.1) for free range egg production CONAPP 25th May 2005
NS/05/00320/FUL Erection of mobile home for temporary period in connection with egg

production units CONAPP 25th May 2005

NS/05/01787/FUL Relocation of previously approved 12000 bird free range egg production unit amendment to ref: N/05/228/ST/564 CONAPP 7th November 2005

09/01940/AGR Prior Notification for the erection of one agricultural implement shed PPNREQ 7th August 2009

09/02268/COU Change of Use of former airfield land to form dog agility training area; erection of storage shed GRANT 30th December 2009

10/01350/OUT Outline application for the erection of an agricultural workers dwelling to include means of access WDN 29th June 2010

PREAPP/20/00484 Proposed installation of a solar farm and associated infrastructure PREAMD 21st January 2021

21/01594/SCR Proposed screening opinion for the installation of a solar farm and associated infrastructure EAN 26th October 2021

22/04154/AGR Agricultural shed PNR 5th October 2022

11. Additional Information

View details online: <http://pa.shropshire.gov.uk/online-applications/applicationDetails.do?activeTab=summary&keyVal=RALNGMTDN4K00>

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 Richard Marshall
Local Members Cllr Paul Gill Cllr Rob Gittins
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, drawings and documents as listed in Schedule 1 below.

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

CONDITION(S) THAT REQUIRE APPROVAL BEFORE THE DEVELOPMENT COMMENCES

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

Reason: The site is known to hold archaeological interest.

4. 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 before development commences.

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/committee-services/Data/Council/20130926/Agenda/18%20Contaminated%20Land%20Strategy%20-%20Appendix.pdf>

5. (a) No development shall take place until a detailed soft landscape scheme for the whole site has been submitted to and approved in writing by the local planning authority and these works shall be carried out as approved. This shall follow the concept given in the Landscape Mitigation Plan and the Landscape, Biodiversity and Agricultural Management Strategy approved as part of this planning consent. The details shall include: plant species, sizes, numbers and densities, method of cultivation and planting; and maintenance regime. This is for all grassed areas, tree, shrub, and hedgerow planting. Other than in relation to the hedgerow mitigation planting, the timing of which is specified in (c) below, the submitted scheme shall include details of the timetable for completion of the landscaping.

(b) Any trees or plants that, within a period of five years after planting, are removed, die or become, seriously damaged or defective, shall upon written notification from the local planning authority be replaced with others of species, size and number as originally approved, by the end of the first available planting season.

(c) No development shall take place until the hedgerow mitigation planting approved under the soft landscape scheme has been completed.

Reason: To ensure the provision, establishment and maintenance of an appropriate landscape scheme in accordance with planning policy; to provide mitigation against glint and glare; and to avoid harm to heritage assets.

6. No development shall take place until details of the external materials and colour of all buildings hereby permitted have been submitted to and approved in writing by the local planning authority. The development shall be carried out in accordance with the approved details.

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

7. No development shall take place until full details of the HV substation have been submitted to and approved in writing by the local planning authority. The substation shall be construction in accordance with the approved details.

Reason: To ensure a satisfactory appearance for the substation, final details of which have not been provided.

8. No development hereby permitted shall be commenced until a construction traffic routing scheme has been submitted to and approved in writing by the local planning authority. The submitted scheme shall set out procedures and mechanisms to ensure that construction traffic avoids passing through both Childs Ercall and Eaton-upon-Tern, and shall include as necessary:

- details of the approved routing plan for construction vehicles, based upon drawing no. SA40866-BRY-XX-A-0001_B (Proposed Access Route);
- details of how delivery drivers and their respective employer will be given prior notification of the approved routing plan which is to be adhered to at all times;
- details and location of temporary signage notifying construction vehicle drivers of the approved route and the route which is to be avoided;
- details of a recording system to ensure that the route taken to and from the site for each vehicle is recorded;
- details of a mechanism to ensure that breaches of the routing plan are reported to the driver and their respective employer;
- details of how infringements would be dealt with to prevent recurrence.

Records of the route taken by each delivery driver and the action taken on infringements shall be made available to the local planning authority for inspection upon request at all times.

The approved scheme shall be adhered to at all times.

Reason: To ensure the appropriate routing of construction traffic on the local highway network and in the interests of highway safety.

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

9. All trees which are to be retained in accordance with the approved plan shall be protected in accordance with the submitted Salopian Consultancy Tree Protection Plan and Arboricultural Method Statement, and in accordance with BS 5837: 2012 "Trees in relation to Design, Demolition and Construction recommendations for tree protection". The protective fences shall be erected prior to commencing any approved development related activities on site, including ground levelling, site preparation or construction. The fences shall be maintained throughout the duration of the development and be moved or removed only with the prior approval of the LPA.

Reason: To safeguard the amenities of the local area by protecting trees.

10. Prior to the commencement of the development a suitably qualified tree specialist shall be appointed to undertake supervision and monitoring of the tree protection fencing at pre-commencement stage and throughout the construction period as outlined in the submitted arboricultural method statement and submit to the LA a satisfactory completion statement to demonstrate compliance with the approved tree protection measures.

Reason: To safeguard the amenities of the local area by protecting trees.

11. (a) Unless part (b) of this condition applies, the development hereby permitted shall not

be brought into use until the path as shown on the Landscape Mitigation Plan no. 3081-001C as 'proposed permissive footpath' has been provided and is available for use as a footpath with a minimum width of 2 metres. The path shall thereafter be kept open and available for use as a permissive footpath for the general public for the lifetime of the development.

(b) Part (a) of this condition shall not have effect at any time that the general route of the proposed path as shown on plan no. 3081-001C, forms part of the definitive rights of way network.

Reason: To ensure that the proposed path which is intended to improve connectivity in the area remains available for use at all times.

12. Prior to first use of the site, 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 suitable mature trees on the site:

- A minimum of 4 Schwegler 2F bat boxes.

- A minimum of 4 Schwegler 1B nest boxes (with 32mm entrance hole).

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

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

13. Prior to the erection of any external lighting on the site, a lighting plan shall be submitted to and approved in writing by the Local Planning Authority. The lighting plan shall demonstrate that the proposed lighting will not impact upon ecological networks and/or sensitive features. 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.

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

14. All site clearance, development, landscaping and biodiversity enhancements shall occur strictly in accordance with the Biodiversity & Agricultural Management Strategy (Salopian Consultancy, May 2022).

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

15. The development shall be undertaken in accordance with the Construction Traffic Management Plan which is included within the submitted Transport Statement dated August 2022, ref. SA40866_TS1_Issue 2.0.

Reason: To minimise adverse impacts on the highway network and local land users.

16. The construction of the solar farm shall not commence until the passing place as shown

on drawing no. SA40866 BRY 0002 (Site Access) has been completed.

Reason: To avoid congestion on the public highway.

17. No machinery shall be operated or delivery vehicles permitted on the premises before 0700 or after 1900 on weekdays nor before 0800 or after 1300 on Saturdays and not at any time on Sundays or Bank Holidays.

Reason: To minimise adverse impacts on local amenity

18. Airborne dust from construction or demolition operations on the site shall be minimised by spraying with water or by carrying out other such works that may be necessary to suppress dust.

Reason: To minimise adverse impacts on local amenity.

19. Panels and other buildings and structures hereby permitted shall not be cleaned other than with de-mineralised water.

Reason: To avoid the risk of contamination of groundwater.

20. (a) Within one week of the date of first export of electricity, written notice of the date of first export shall be given to the local planning authority.

(b) Electricity generation at the site shall cease no later than the 40th anniversary of the date of first export.

(c) Not less than 6 months before the 40th anniversary of the date of first export, or within 12 months of the cessation of electricity generation at the site, whichever is the sooner, a decommissioning and site restoration scheme shall be submitted to the local planning authority for approval. The submitted scheme shall include details of timescales for decommissioning and site restoration, and shall be implemented in accordance with the approved details.

Reason: To define the temporary period of the development and ensure that the land is satisfactorily reinstated following cessation and/or planned design life to enhance the landscape and visual character of the area.

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

Failure to discharge pre-start conditions will result in a contravention of the terms of this

permission; any commencement may be unlawful and the Local Planning Authority may consequently take enforcement action.

3. 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 either of the hybrid black poplars (labelled T38 & T40 in the Preliminary Ecological Appraisal (Salopian Consultancy, February 2022) 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.

Nesting birds informative

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

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

All vegetation clearance, tree removal and/or scrub removal should be carried out outside of the bird nesting season which runs from March to August inclusive.

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

General site informative for wildlife protection

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

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

animals, including reptiles, amphibians and hedgehogs.

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

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

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

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

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

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

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

4. Landscaping

The submitted landscaping scheme should consider the location of the proposed hedgerow planted in the shade of the existing tree belt (which separates the site from Eaton upon Tern). A standoff to allow enough light for successful establishment is likely to be necessary.

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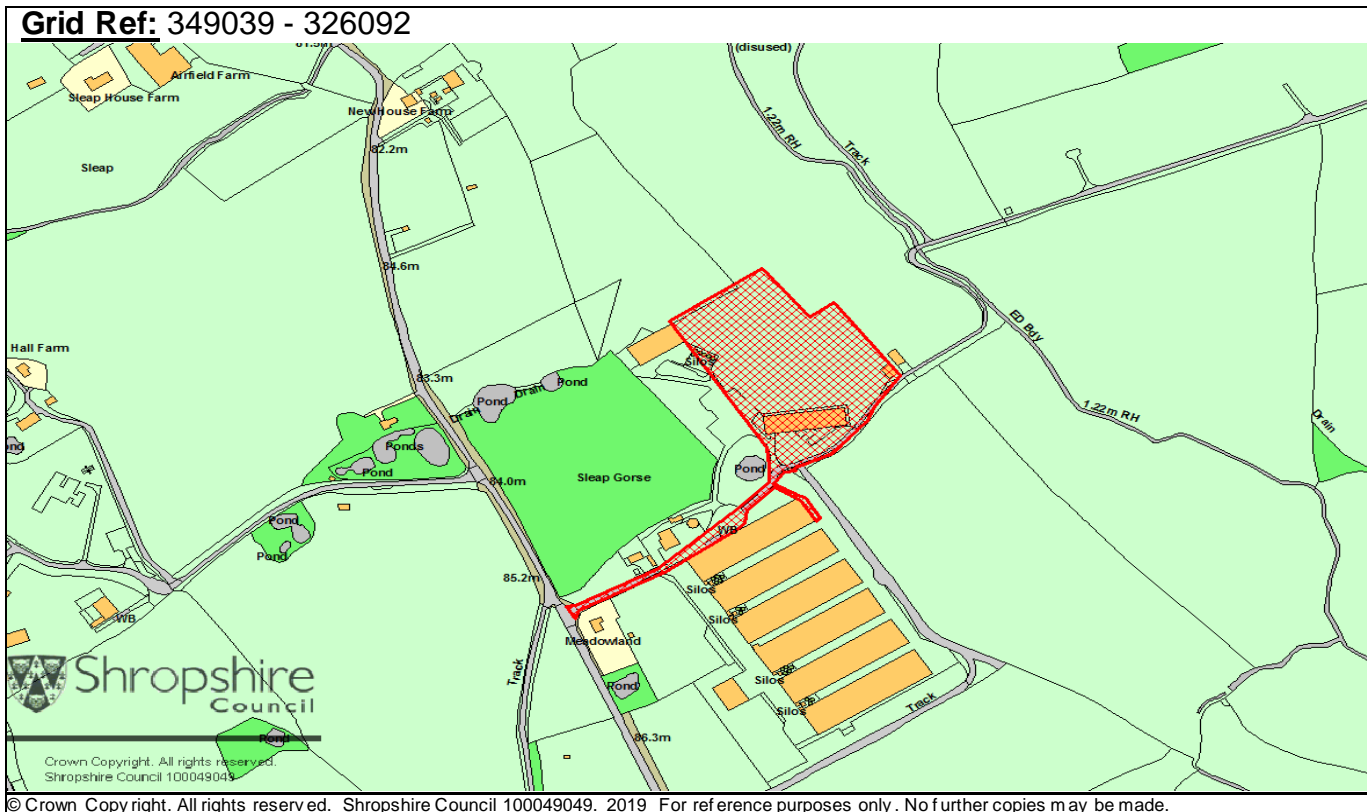


Northern Planning Committee
7th March 2023

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

Summary of Application

Application Number: 22/02001/EIA	Parish:	Myddle Broughton and Harmer Hill
Proposal: Erection of three additional poultry units with associated air scrubber units, control rooms, feed blending rooms, feed bins, hardstanding, dirty water tanks and a drainage attenuation pond, together with retrofitting an air scrubber unit to an existing poultry shed		
Site Address: Meadowland, Sleaf, Harmer Hill, Shrewsbury, Shropshire, SY4 3HE		
Applicant: Mr David Grocott		
Case Officer: Richard Denison	Email: richard.denison@shropshire.gov.uk	



Recommendation: Granted subject to the conditions as set out in Appendix 1

REPORT

1.0 THE PROPOSAL

- 1.1 The proposed development relates to the erection of three additional broiler poultry houses with associated air scrubber units, control rooms, feed blending rooms, feed bins, hard standings, dirty water tanks, and an attenuation pond, together with retrofitting an air scrubber unit to an existing poultry house on land at Meadowland, Sleaf. Each new poultry house will have a capacity of 47,500 birds and will increase the total capacity of the site from the existing 318,000 birds, up to 460,500 birds, an increase of 142,500.
- 1.2 The development will consist of the proposed works:
- Poultry Houses - Three Poultry Houses measuring 110m x 20.42m with an eave's height of 3.3m and a ridge height of 6.114m.
 - Air Scrubber Units - Three air scrubber units attached to the northern elevation of the new poultry houses, measuring 7m x 20.42m with an eave's height of 4m and a ridge height of 7.114m.
 - Control Rooms - Three control rooms attached to the south elevation of the new poultry houses, measuring 12.510m x 4m with an eave's height of 3.3m and a ridge height of 6.114m.
 - Feed Blending Rooms - Two feed blending rooms, measuring 4m x 3m with an eave's height of 2.9m and ridge height of 3.446m.
 - Hard Standings - Concrete aprons to the north and south of the proposed poultry houses.
 - Dirty Water Tanks - Two SSAFO certified dirty water tanks.
 - Attenuation Pond - Sustainable Drainage System
 - Retrofitting Air Scrubber - Retrofitting to Existing Poultry House 1.
- 1.3 The application has been accompanied by a site location plan, block plan, elevations and floor plans, Design & Access Statement, Flood Risk Assessment, Landscape & Visual Impact Assessment, Transport Statement, Noise Impact Assessment, Odour Report, Ecology Survey, Ammonia Report and Environment Statement.
- 1.4 A detailed pre-application enquiry was submitted which indicated that the development could be considered acceptable in principle, although the proposal represents substantial development in the countryside to which careful consideration will be required in particular in relation to landscape and ecological mitigation, as well as impacts on residential amenity and public highway access.

2.0 SITE LOCATION/DESCRIPTION

- 2.1 The site is located at Meadowlands, an 18.6 hectare farm at Sleaf, and is an existing poultry enterprise. There are six modern poultry buildings at the farm, developed through 2014 to 2017 with a housing capacity of 318,000 broilers. The site is within the Parish of Myddle, Broughton and Harmer Hill and sits in an area of countryside. Sleaf is located approximately 3km to the south of the market town of Wem and is made up of sporadic houses and farms, the private airfield operated by Sleaf Aero Club and a small number of other businesses.
- 2.2 Access to the site is via the minor road known as Burma Road, which is accessed off the B5476 Shrewsbury to Wem Road. Wem, Clive and Myddle are all approximately 3km from the site and Loppington is 3.75km away. There are a small number of houses and farms in Sleaf, it is not an identified settlement in the SAMDEV Plan but is recognisable on an OS map. The site is therefore considered to be countryside in planning terms with the main use being the airfield which is still in active use by small aircraft.

3.0 REASON FOR COMMITTEE DETERMINATION OF APPLICATION

- 3.1 The application is schedule one development in accordance with Environment Impact Assessment Regulations 2017. As such the application requires Committee consideration.

4.0 COMMUNITY REPRESENTATIONS

4.1 Consultee Comments

- 4.1.1 **Shropshire Council, Highways** - The site has been visited and from a highway aspect it is considered that the highway network can cater for the additional traffic generation as a result of the 3 additional units. Highways therefore raise no objection to the granting of consent.
- 4.1.2 **Shropshire Council, Ecology** - No objection. Conditions are recommended to secure biodiversity mitigation and enhancement, in accordance with the NPPF, MD12 and CS17. Information from the consultant ecologists regarding the ponds and the Habitat Suitability Index calculations has been undertaken. The consultants have also now provided a map showing the location of the ponds. It is well documented that the Habitat Suitability Index assessment is not a substitute for survey and does not prove presence/likely absence but provides an indication of the likelihood of Great Crested Newts being present. Therefore, as the works will impact an area (albeit relatively small) of highly suitable terrestrial habitat for Great Crested Newts (tall ruderal) and which is within the core area of pond 1 (within 50m) Precautionary Working Methods for Great Crested Newts to be detailed as they are for reptiles and can be conditioned. It is agreed that the works would not require a mitigation licence for Great Crested Newts.
- 4.1.3 **Shropshire Council, Drainage** - The proposed surface water drainage strategy in the Flood Risk Assessment is acceptable in principle. The final drainage details, plan and calculations should be submitted for approval including details and plan on how the contaminated water in the yard from spillages or cleaning of the poultry units will be

managed/isolated from the main surface water system to ensure that polluted water does not enter the water table or watercourse.

- 4.1.4 **Shropshire Council, Regulatory Services** - The proposal will require an Environmental Permit issued and regulated by the Environment Agency prior to operation. It is advised that the Environment Agency is consulted on this application. The environmental Permit will control any noise or odour generated within the boundary of the site. It is not anticipated that there will be significant noise or odour generated off the site so Environmental Protection has no comments regarding noise or odour. The application indicates that manure will be exported to their local biogas plant at Whitchurch. Previous appeals found that moving the spreading of manure to a third party for spreading would be considered to be an indirect impact of a poultry application requiring consideration by the planning regime. It is recommended that an appropriate manure management plan is required or an agreement that the applicant will only provide manure to the biogas plant. It would be advised that this aspect should be conditioned to ensure that the planning regime offers reasonable security of this aspect having a low impact.
- 4.1.5 **Shropshire Council, Landscape Consultants** - This proposed site is relatively small in landscape and visual terms and will not have any significant landscape and visual impact subject to the landscape mitigation proposal.
- 4.1.6 **Environment Agency** - Environmental Permitting Regulations: The proposed development will accommodate up to 460,500 birds, which is above the threshold (40,000) for regulation of poultry farming under the Environmental Permitting (England and Wales) Regulations (EPR) 2016, as amended. The Environmental Permit controls day to day general management, including operations, maintenance and pollution incidents.

The Environmental Permit will include the following key areas:

- Management - including general management, accident management, energy efficiency, efficient use of raw materials and waste recovery.
- Operations - including permitted activities and Best Available Techniques (BAT).
- Emissions - to water, air and land including to groundwater and diffuse emissions, odour, noise and vibration, monitoring.
- Information - records, reporting and notifications.

The site is an existing intensive poultry site which is permitted to stock 350,000 birds in seven sheds. The proposed development will add a further three houses and this will need an application to vary the site environmental permit. Initially the applicant had applied for (and gained) a separate intensive poultry site permit nearby. The permit (QP3233YH), allowed for 350,000 birds to be reared in six sheds. This was to be operated as a separate facility. Its location was close to an educational establishment. We had some concerns as to the siting of that poultry unit nonetheless a permit was issued. If the applicant does not intend to develop this site, then that separate permit will need revoking as part of the overall variation to the permit EPR/SP3737FF.

The Environment Agency encourages the 'twin tracking' of the Environmental Permit with the planning application to help give a greater degree of certainty on the appropriateness of the land use.

The Environment Agency have indicated that they have not received any recent substantiated complaints regarding the existing poultry operation which we regulate.

Generic guidance notes have been provided in relation to Ammonia Emissions; Ammonia Screening; Environmental Permit Control; Odour and Noise; Odour Management Plans; Noise Management Plans; Bio-aerosols and Dust; Dust Management Plans; Water Management; Manure Management (storage/spreading); and Pollution Prevention.

4.1.7 **Myddle Broughton And Harmer Hill Parish Council** - Members have raised the following objections:

1. Page 19 of the Odour Report shows clearly that the existing odour measurements taken at the farm are far greater than measurements collected at any other point in the locality. The proposed increase in the number of poultry will further increase the odour to the detriment of those living or active in the area.
2. The transportation of chicken manure from the farm to the processing plant at Whitchurch will, apart from the increased smell, mean considerably more large vehicles using narrow roads that are not constructed for this type of vehicle, leading to congestion and road damage.

4.1.8 **Wem Town Council** wish to comment that if Shropshire Council are minded approving the application the following condition be included as part of planning permission: "All vehicles leaving the site must head south along Burma Road to the B4576, where they turn left and head north towards Wem. At the outskirts of Wem, they must not travel through the town and instead turn right at the mini roundabout before the railway bridge and head southeast along the B5063 Shawbury Road to the A49, onto which they turn left to head north."

4.2 **Public Comments**

4.2.1 One letter has been received from the occupiers of Sleaf Hall Farm raising the following concerns:

- Smell from existing poultry buildings occurs in and around home during cleaning out.
- Noise from scrapping when cleaning out existing poultry buildings which is undertaken during midnight and the early hours of the morning.
- Increase in light pollution from external lighting.
- Traffic impact from increased use of Burma Road which is already heavily overused with traffic from the woodyard, airfield, nearby school and local residents.

5.0 **THE MAIN ISSUES**

- Background

- Policy & Principle of Development
- Environmental Impact Assessment
- Layout, Scale and Visual Impact
- Impact on Residential Amenity
- Highways
- Ecology
- Drainage
- Flooding

6.0 OFFICER APPRAISAL

6.1 Background

- 6.1.1 Meadowlands is an established poultry farm, which extends to six poultry houses which are used for broiler rearing. Five of the existing poultry houses were constructed in 2013, and the sixth as an expansion in 2016. All of the existing poultry houses are identical, and of standard poultry house construction, formed from steel portal frames, with the external cladding being polyester coated profile sheeting in Olive Green. The existing poultry houses are equipped with automated feeders and drinkers, and a high-speed roof mounted ventilation system. The existing poultry houses each accommodate up to 53,000 birds per flock, with the site having a total capacity of 318,000 birds.
- 6.1.2 The applicants propose to expand their poultry farming operations on the site through the erection of three additional poultry houses. The use of the development will be for the rearing of broiler chickens. Birds will be delivered to the site as day old chicks, and reared within the buildings for 38 days, at which point they will be removed live to the processors and enter the food chain. Following the removal of each flock of birds, the buildings will be mucked out, power washed, dried, bedded with shavings and pre heated in readiness for the next flock of birds. The cleaning and building preparation process takes around 10 days.
- 6.1.3 The proposed poultry buildings are identical and will have pan feeders, non-drip nipple drinkers and indirect heating provided by the existing renewable heating system. Ventilation within the buildings is based on high velocity chimneys above an air scrubber. The ventilation, heating and feeding systems are all fully automated and controlled by a computer system located within the control rooms which are attached to the south elevation of each poultry shed. The systems are alarmed for high and low temperature, feeding system failure and power failure. The alarm system will be linked to an 'auto dial' computer system which alerts personnel via mobile phone to any system failures. The proposed poultry unit will produce standard birds, based on a 48-day growing cycle, including 10 days at the end of each cycle for cleanout and preparation of the buildings for the incoming flock. The unit will operate with approximately 7.6 flocks per annum.
- 6.1.4 All manure and dirty water generated by the existing poultry houses is currently disposed of via the applicants existing biogas plant at Whitchurch. The additional manure and dirty water arising from the expanded development will also be directed to the applicant's biogas plant at Whitchurch. The existing and proposed buildings will

operate on an all-in-all out basis, with all nine poultry houses stocked and de-stocked at the same time.

6.2 Policy & Principle of Development

6.2.1 The National Planning Policy Framework (NPPF) advises that the purpose of the planning system is to contribute to achieving sustainable development and establishes a presumption in favour of sustainable development (para. 7). One of its core planning principles is to proactively drive and support sustainable economic development. Sustainable development has three dimensions - social, environment, and economic. The NPPF also promotes a strong and prosperous rural economy, supports the sustainable growth and expansion of all types of business and enterprises, in rural areas, and promotes the development of agricultural businesses (para. 84). The NPPF states that the planning system should contribute to and enhance the natural and local environment (para. 174) and ensure that the effects (including cumulative effects) of pollution on health, the natural environment or general amenity should be taken into account (para. 185).

6.2.2 Core Strategy Policy CS5 states that development proposals on appropriate sites which maintain and enhance countryside vitality and character will be permitted where they improve the sustainability of rural communities by bringing local economic and community benefits, particularly where they relate to specified proposals including agricultural related development. It states that proposals for large scale new development will be required to demonstrate that there are no unacceptable adverse environmental impacts. Whilst the Core Strategy aims to provide general support for the land-based sector, it states that larger scale agricultural related development including poultry units, can have significant impacts and will not be appropriate in all rural locations (para. 4.74). Policy CS13 seeks the delivery of sustainable economic growth and prosperous communities.

6.2.3 In rural areas it says that particular emphasis will be placed on recognising the continued importance of farming for food production and supporting rural enterprise and diversification of the economy, in particular areas of economic activity associated with industry such as agriculture.

6.2.4 The above policies indicate that there is strong national and local policy support for development of agricultural businesses which can provide employment to support the rural economy and improve the viability of the applicant's existing poultry business. In principle therefore it is considered that the provision of a further three broiler units can be given planning consideration in support. Policies recognise that poultry units can have significant impacts and seek to protect local amenity and environmental assets.

6.3 Environmental Impact Assessment

6.3.1 The Town and Country Planning (Environmental Impact Assessment) Regulations 2017 specify that Environmental Impact Assessment (EIA) is mandatory for proposed development involving the intensive rearing of poultry where the number of broiler birds is 85,000 or more. As such the current proposal is classed as Schedule 1: 17(a) EIA development. An adequate Environmental statement in support of such an application is therefore essential. Whilst the proposal also falls into the remit of Schedule 2 EIA Development criteria (Schedule 2: 1(c) – Agriculture and aquaculture and intensive

livestock installations, as area of floor space exceeds 500 square metres). The fact that the number of additional birds on site is to be 142,500 means that Schedule 1 development procedure prevails. The applicants environmental statement submitted in support of the application is considered adequate in consideration of the assessment of the environmental impacts as a result of the proposed development.

6.4 **Layout, Scale and Visual Impact**

6.4.1 Core Strategy policy CS6 seeks to ensure that development is appropriate in scale and design considering local context and character, having regard to landscape character assessments and ecological strategies where appropriate. It states that development will be designed to a high quality using sustainable design principles. Policy CS17 also seeks to protect and enhance the diversity, high quality, and local character of Shropshire's natural environment and to ensure no adverse impacts upon visual amenity, heritage and ecological assets. SAMDev Plan policy MD2 requires that development contributes to and respects locally distinctive or valued character and existing amenity value and demonstrates how good standards of sustainable design and construction have been employed. SAMDev Plan policy MD7b states that applications for agricultural development should be of a size/scale which is consistent with its required agricultural purpose, and where possible sited so that it is functionally and physically closely related to existing farm buildings.

6.4.2 The poultry houses measure 20.4 metres wide by 117 metres long and will include an air scrubber at one end and a bird housing area for 47,000 birds. The eaves height will be 4.3 metres with the ridge height of 7.1 metres. A control room, catching canopy and two feed bins will be located at the end and will extend the building by a further 4 metres. The walls and roof of the building together with the feed bins will be constructed from polyester coated profile sheeting in olive green, whilst the roof chimneys will be black plastic. The buildings will be separated by 8 metres and there will be two small feed blending buildings located between each poultry unit at the end.

Siting and Alternatives

6.4.3 No details of alternative sites to the proposed development have been provided. The Environmental Statement advises that the application site is considered to be the only suitable location as it is a natural extension to the existing poultry houses. The proposed buildings would be positioned close to the existing ones and would utilise existing infrastructure at the site such as roadways. This in principle is considered acceptable.

Visual Impact

6.4.4 A detailed Landscape and Visual Impact Assessment has been prepared by LVIA Ltd to provide an assessment of the potential landscape and visual effects of a proposed development upon the landscape. Particular attention was paid to the potential views of receptors of high sensitivity such as users of public rights of way and residential properties.

6.4.5 The site is located adjacent to existing poultry houses and is part of a field in agricultural use which is surround by a native hedgerow and trees. An existing agricultural building is located to the west adjacent to a dense small woodland, whilst the southern corner

of the site has an old, dilapidated poultry house. The site sits in a gently undulating landform and is well screened from the public highway to the west.

- 6.4.6 The Landscape and Visual Impact Assessment study area included a radius of approximately 2.5km from the centre of the site in which four viewpoints were considered. The viewpoints assessed showed that the site is partly visible from two of the four assessed and that none of these views can be considered subject to significant material change.
- 6.4.7 The view from the B5476 is at a distance of 1.34km from which the ridgelines of the proposed poultry houses are likely to be visible, although this is through intervening vegetation. This section of the road is twisty and road users would only view glimpses across the landscape whilst concentrating on the road. The second viewpoint is from the Burma Road at the junction of a public footpath to the north east of the site. From this view point the end of the poultry units will be partly visible alongside an existing agricultural building of a similar scale.
- 6.4.8 The Council landscape consultant has been consulted on the Landscape and Visual Impact Assessment and initially raised concerns regarding the methodology and requirement for mitigation measures at reducing the impact. A revised assessment was carried out, together with the submission of a detailed landscaping proposal. The proposed landscaping consists of a mixed woodland belt to the north of the proposed poultry houses covering an area of 0.62ha. The woodland belt will be approximately 250 metres long and ranging in depth from 16 metres to 55 metres and will link into the existing woodland to the west of the site. The planting will consist of several staggered rows of a woodland mix consisting of native trees and shrub understorey with 3 metre centres to allow suitable growth. This planting will prevent any view from the public footpath at the junction of Burma Road and New House Farm to the north.
- 6.4.9 The Council landscape consultant has indicated that this proposed site is relatively small in landscape and visual terms and will not have any significant landscape and visual impact subject to the landscape mitigation proposal.
- 6.4.10 Officers consider that due to the existing local area, the proposed scheme would not be out of character with its surroundings when considered as part of the wider landscape. Mitigation measures have been suggested to aid the schemes visual blending with the existing environment. Four viewpoints were considered and of these, none were considered subject to material visual impacts. With the implementation of a successful mitigation strategy, the overall impact on the landscape is considered to have a minor/negligible overall effect on the surrounding landscape character and a minor effect on the visual baseline (i.e. not a material change). Officers consider that this type of development is not out of character within the existing landscape.
- 6.4.11 The proposed development will not result in any significant landscape and visual impacts subject to the proposed planting scheme along the northern boundary.

6.5 **Impact on Residential Amenity**

- 6.5.1 Policy CS6 'Sustainable Design and Development Principles' of the Shropshire Core Strategy indicates that development should safeguard the residential and local amenity.

Poultry Buildings

- 6.5.2 Having regard to the distance away from neighbouring properties and low height the proposed poultry houses will not result in any detrimental impact from causing any overbearing impact or loss of light.

Noise

- 6.5.3 A detailed Noise Impact Assessment has been prepared by Matrix Acoustic Design Consultants to review plant and operational noise generated from the proposed development. The assessment includes the proposed ventilation systems together with transport related noise.
- 6.5.4 Concerns have been raised from the occupiers of Sleep Hall Farm which is located over 530 metres away to the west regarding noise from cleaning out the existing poultry buildings which is undertaken during midnight and the early hours of the morning.
- 6.5.5 The Noise Impact Assessment has split the potential noise sources into two categories, plant noise from the ventilation fans and transport noise from the commercial vehicles manoeuvring and loading/unloading. A noise survey has been undertaken to establish the typical background noise levels at the nearest dwellings to the development site over a 24-hour period and to establish noise levels generated by the plant and transport activities. Six dwellings have been assessed in relation to noise impact which range from 300 metres to 1km away.
- 6.5.6 In both daytime, evening and night time the noise level from the ridge fans and the air scrubber fans are significantly below the typical background noise levels. In relation to the transport noise these are also below typical background noise levels during the day and evening, whilst during the night the noise level is between 1dB to 10dB above the typical background noise level. However, the occupiers of the nearest dwellings will be within their houses during the night period and a room even with an open window will provide between 10dB to 15dB sound reduction. As a result of this the noise levels would be below typical background noise and therefore not result in any noise impact.
- 6.5.7 ProPG: Planning & Noise (2017) provides guidance with regard to maximum noise events and sleep quality. Where individual noise events do not normally exceed 45dB more than 10 times a night within a bedroom ProPG states that this represents a reasonable threshold below which the effects of individual noise events on sleep can be regarded as negligible. The maximum noise ingress levels generated by the transport activities fall significantly below this threshold.
- 6.5.8 Therefore, during the night noise emissions from the development will result in a very low noise impact.

Odour

- 6.5.9 The application site is currently an operational poultry farm and therefore offers some potential for adverse odour conditions. A detailed Odour Assessment has been prepared by AS Modelling & Data Ltd consultants to review the odour emission rates from the existing and proposed poultry houses.

- 6.5.10 Concerns have also been raised from the occupiers of Sleep Hall Farm regarding smells during cleaning out.
- 6.5.11 The odour emission rates have been quantified based upon an emissions model that takes into account the likely internal odour concentrations and ventilation rates of the poultry units and also the effects of the ammonia scrubbing equipment that would be fitted, in relation to the additional units as a result of this proposal. The odour emission rates obtained have been used as inputs to an atmospheric dispersion model which calculates odour exposure levels in the surrounding area.
- 6.5.12 Odour concentration is expressed in terms of European Odour Units per metre cubed of air (ouE/m³). 1.0 ouE/m³ is defined as the limit of detection in laboratory conditions, whilst 2.0 ouE/m³ is a particular odour which might be detected against background odours in an open environment. When the concentration reaches around 5.0 ouE/m³, a particular odour will usually be recognisable, but would usually be described as faint. At 10.0 ouE/m³, most would describe the intensity of the odour as moderate or strong and if persistent, it is likely that the odour would become intrusive.
- 6.5.13 Odour emission rates from broiler units depend on many factors and are highly variable. At the beginning of a crop cycle, when chicks are small, litter is clean and only minimum ventilation is required, the odour emission rate may be small. Towards the end of the crop, odour production within the poultry housing increases rapidly and ventilation requirements are greater, particularly in hot weather, therefore emission rates are considerably greater than at the beginning of the crop.
- 6.5.14 The Odour Assessment has considered all variables in the crop cycle and predicts that at all nearby residential properties will be below the odour exposure level set by the Environment Agency's benchmark for moderately offensive odours, which is a concentration of 3.0 ouE/m³. The maximum predicted odour exposure is below this threshold and is 2.45 ouE/m³ at New House Farm which is 300 metres away to the north.
- 6.5.15 The proposed development requires an Environmental Permit in order to operate which is issued by the Environment Agency. The requirements of the Environmental Permit insist on the site being designed to Best Available Techniques. This includes the provision of a high velocity ventilation system and air scrubber, which is deemed to be Best Available Techniques for the dispersal of odour and ammonia emitted from the proposed poultry buildings.
- 6.5.16 Each of the proposed poultry houses will be fitted with air scrubber units, whilst Poultry House 1 will be retrofitted with an air scrubber unit. It is understood that this unit may be the cause of some existing odours which the owners of New House Farm have experienced and thus the fitting of an air scrubber to the unit will be a betterment in relation to this matter.
- 6.5.17 Therefore, the proposed development will not result in any unacceptable level of odour impact on residential properties.

Light Pollution

- 6.5.18 Concerns have also been raised from the occupiers of Sleaf Hall Farm regarding the increase in light pollution from external lighting.
- 6.5.19 The agent has indicated that the development does not require 24-hour external lighting. However, there are four days over each flock cycle when night time catching operations will be undertaken and lighting on the site will be required. This will be in the form of directional flood lighting above the catching doors. Motion sensor trigger lighting will be provided for any staff needing to visit the site during hours of darkness.
- 6.5.20 However, the proposed poultry houses will be screened from Burma Road by the existing poultry houses and small dense woodland. The buildings will be accessed from the end elevation facing south which would not be visible from any public vantage point and over 1km from the nearest property which may have a broken view towards the farm across agricultural fields hedgerows and trees. However, officers consider it would be appropriate to condition any external lighting so that the intensity, position and orientation of any lighting can be controlled.

6.6 Highways

- 6.6.1 Policy CS6 'Sustainable Design and Development Principles' of the Shropshire Core Strategy indicates that proposals should be designed to be safe and accessible to all.
- 6.6.2 Meadowland is served via an existing access approximately 1.75km along Burma Road from its junction with the B5476. The site has an existing splayed entrance with visibility splays of 2.4 metres by 70 metres with localised road widening for vehicles turning left out of the site. These works were provided as part of a previous planning permission 12/04574/EIA granted in March 2013 for the construction of a broiler building (Phase 1 of a 5 Phase development). As part of this application further highway improvements were also undertaken which included the provision of a passing place on Burma Road near Woodside Farm (approximately 250 metre south of the site access) and revisions to the Burma Road junction with the B5476 to increase the bellmouth radii to 15 metres. Visibility for vehicles joining the B5476 is excellent in both directions from the wide grass verge and set back of the field hedgerow.
- 6.6.3 Burma Road has a variable width along its length from around 6 metres in the vicinity of the B5476 junction and localised widening/passing place to 4.1 metre on the straight section between the site access and the passing place to the south near Woodside Farm. At the junction of the B5476 the approach and departure lanes are marked with a central line. It is therefore apparent that HGV's can travel in both directions along Burma Road at the same time without resulting in obstructions to the flow of traffic.
- 6.6.4 The existing Meadowland Poultry units operate on a flock cycle with 7.5 flocks per year resulting in the following traffic movements:

Activity	Vehicle Size	Existing Frequency (Loads per flock)
Chick Delivery	16.5m Articulated HGV	5
Feed Delivery	16.5m Articulated HGV	35
Bird Collection	16.5m Articulated HGV	40
Manure Removal	16.5m Articulated HGV	17
Dirty Water Removal	Tanker	6
Carcass Collection	7.5 Tonne Rigid HGV	5
Fuel Delivery	16.5m Articulated HGV	4
Shavings Delivery	16.5m Articulated HGV	2
Total per Flock		114 (228 Movements)
Total per Annum (7.5 flocks)		855 (1710 Movements)

- 6.6.5 Chicks are normally delivered on a single day resulting in 5 HGV loads at the start of the flock cycle. Thinning out of the flock is undertaken at around days 29 and 30 of the cycle, resulting in 10 HGVs. The remaining flock is removed at around days 37 and 38, which also results in 10 HGVs per day.
- 6.6.6 Once the flock is removed, cleaning of the units is undertaken over 2 days, resulting in 11 to 12 HGVs per day (including the tankers removing dirty water), which is the busiest activity during the cycle. Shavings are then imported in a couple of HGV loads in a day before the next flock of chicks are delivered.
- 6.6.7 All vehicles leaving the site head south along Burma Road to the B4576, where they turn left and head north towards Wem. At the outskirts of Wem, vehicles turn right at the mini-roundabout and head southeast along the B5063 Shawbury Road to the A49, onto which they turn left to head north.
- 6.6.8 The flock travels to Moy Park at Ashbourne, Derbyshire, whereas the manure and dirty water is transported towards Whitchurch, where it is fed into the applicant's Anaerobic Digestion Plant off the A525 on the east side of the town to produce sustainable energy. The feed to the Poultry Unit is also supplied from Moy Park. Inbound vehicles follow the same route in reverse.
- 6.6.9 The Transport Statement indicates a review of Crashmap reveals that there have been no recorded accidents at the site access or the route between it and the B5476 since 2013 when the associated highway improvements were undertaken.
- 6.6.10 The proposed development would provide three additional poultry sheds, and capacity for a further 142,500 birds. There would be no changes to the existing access arrangement to the site from the public highway, or the routes followed by vehicles travelling to and from Meadowland Poultry.
- 6.6.11 The proposed new sheds would operate on the same flock cycle as the existing units. As a result, the same processes within the existing and proposed buildings would coincide, i.e. stocking, cleaning, etc. would be undertaken at the same time for the whole poultry unit. Due to the increased capacity, there would be additional vehicle movements to and from Meadowland Poultry when compared with the existing

situation. The table below confirms the existing and proposed movements, together with the change in vehicle numbers per flock cycle and per annum.

Activity	Vehicle Size	Existing Frequency (Loads per flock)	Proposed Frequency (Loads per flock)	Proposed Increase (Loads per flock)
Chick Delivery	16.5m Articulated HGV	5	7	2
Feed Delivery	16.5m Articulated HGV	35	50	15
Bird Collection	16.5m Articulated HGV	40	57	17
Manure Removal	16.5m Articulated HGV	17	24	7
Dirty Water Removal	Tanker	6	12	6
Carcass Collection	7.5 Tonne Rigid HGV	5	5	0
Fuel Delivery	16.5m Articulated HGV	4	6	2
Shavings Delivery	16.5m Articulated HGV	2	3	1
Total per Flock				
		114 (228 Movements)	164 (328 Movements)	50 (100 Movements)
Total per Annum (7.5 flocks)				
		855 (1710 Movements)	1230 (2460 Movements)	375 (750 Movements)

- 6.7.12 As the table above demonstrates, the proposed development would result in an additional 50 loads per flock cycle and 375 loads per annum when compared with the existing situation. This equates to an average of just over 1 load per day over the year.
- 6.7.13 The expansion of the existing business would result in additional traffic movements to and from the site via the existing access and road network. A review of the crop cycles confirmed the largest increase would occur over a couple of days within the cycle when the buildings are cleaned.
- 6.7.14 Concerns have been raised by Myddle Broughton and Harmer Hill Parish Council that the transportation of chicken manure from the farm to the processing plant at Whitchurch will result in more large vehicles using narrow roads that are not constructed for this type of vehicle, leading to congestion and road damage. However, it is clear from the Transport Assessment that the HGV's utilise the main road network, although use a short 1.75km section of Burma Road. This is a tarmac road which is maintained by the Council and is used by a number of large vehicles for commercial businesses, the airfield and farms at Sleep.

- 6.7.15 Comments have been received from Wem Town Council recommending a condition which stipulates that all vehicles leaving the site and approaching Wem should be directed along the B5063 Shawbury Road to the A49 so that they do not travel through the town. No evidence has been submitted indicating that existing vehicles are travelling through Wem or that this is causing any highway impact. The Transport Statement provides confirmation that vehicles are not taking the route through Wem and are using the shortest route along main B-roads to access the main A49 trunk road for vehicles heading to Whitchurch and Ashbourne.
- 6.7.16 The Highways Manager has reviewed the Transport Statement and has confirmed that the highway network can cater for the additional traffic generation as a result of the three additional poultry units and raises no objection on highway safety grounds.

6.7 Ecology

- 6.7.1 Policy CS17 'Environmental Networks' of the Shropshire Core Strategy indicates that development will identify, protect, expand and connect Shropshire's environmental assets to create a multifunctional network and natural and historic resources. This will be achieved by ensuring that all development protects and enhances the diversity, high quality and local character of the natural environment and does not adversely affect the ecological value of the assets, their immediate surroundings or their connecting corridors. This is reiterated in national planning guidance in 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.

Impact on Wildlife

- 6.7.2 A detailed Ecological Appraisal has been carried out 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 new ecology gain.
- 6.7.3 Meadowlands is surrounded by arable land with habitats on and adjacent to the site include an existing poultry unit, barns, arable land and overgrown scrub. There are no ponds on the site, although there are six ponds within 250 metres of the site. The six ponds have been surveyed and assessed to have 'poor' habitat suitability for Great Crested Newts. Whilst the habitat covering the majority of the development site (intensively managed arable land) is considered to be a very poor habitat for Great Crested Newts.
- 6.7.4 The existing derelict poultry building has been assessed for the suitability for roosting bats, although due to the poor state of the building with large openings the building has very few potential roosting opportunities and no evidence was found. All of the trees and bushes on the site were considered to have negligible potential to support roosting bats as no bat roosting features were observed during the survey. Bats are likely to forage within the site to some extent, although the development is unlikely to have a significant impact on the local bat population.

- 6.7.5 Evidence of red foxes and moles were present on the site and a number of small mammals including hedgehogs probably use the habitats on the site.
- 6.7.6 The ecological appraisal has revealed that the sites habitat which will be affected by the work are considered to be of low intrinsic biodiversity value.
- 6.7.7 The proposed biodiversity enhancements for wildlife include the construction of a new attenuation pond, the placement of hedgehog boxes in the bases of hedgerows and the erection of bird and bat boxes on suitable trees within the curtilage of the farm. The installation of new ammonia air scrubbers on an existing poultry shed as well as the new poultry sheds will reduce the ammonia emissions from the poultry units as a whole. The proposed ecological protection and enhancements will provide biodiversity net gains with no unacceptable adverse impact on ecology.

Ammonia Impact

- 6.7.8 A detailed Ammonia Impact Assessment has been prepared by AS Modelling & Data Ltd consultants to review the ammonia emission rates from the existing and proposed poultry houses.
- 6.7.9 Ammonia emission rates from the existing and proposed poultry houses have been assessed and quantified based upon the Environment Agency's standard ammonia emission factors and also upon an emissions model that estimates emissions from the ammonia scrubbing equipment that would be fitted to the proposed new poultry houses and an existing poultry house. The ammonia emission rates have then been used as inputs to an atmospheric dispersion and deposition model which calculates ammonia exposure levels and nitrogen and acid deposition rates in the surrounding area.
- 6.7.10 The modelling predicts that at all wildlife sites (including Ruewood Pools Local Wildlife Site and Ruewood Pastures Site SSSI) that the ammonia concentrations and nitrogen deposition rates would be below the Environment Agency's lower threshold percentage. SC Ecologist have raised no concerns in relation to this matter.
- 6.7.11 Therefore, the Ammonia Impact Assessment confirms that the ammonia or nitrogen deposit rates on all wildlife sites will be negative.

6.8 Drainage & Disposal of Waste

- 6.8.1 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.
- 6.8.2 The application proposes the use of Sustainable Drainage System (SuDS) for all of the surface water from the buildings. The water from the hard standings and washing out of the insides of the buildings will need to be collected and disposed of offsite as this will be similar to the collected manure. The collection tanks should be fitted with level indicators to identify when they need emptying and the Environment Agency have provided advice to the application on pollution prevention measures which are commented on by the agent in the Environment Statement. The SuDS proposes that the surface water is collected and taken to a swale prior to discharging to Sleep brook

approximately 80 metres from the site which in turn joins the River Roden at Wem. The swale will have both infiltration and attenuation capabilities and hold the surface water close to source, releasing it slowly over time to not exceed green field run off rate. Both the Environment Assessment and the Council Drainage Engineer have advised that this method of dealing with surface water is acceptable in principle.

- 6.8.3 All manure produced from the unit will be removed from the site in sheeted HGV trailers for disposal via the applicants existing Anaerobic Digester Plant at Whitchurch. The anaerobic digester plant holds its own Environmental Permit (EPRJP3134RD) to process up to 50,000 tonnes poultry manure, silage and energy crops. As a result, the impacts of waste disposal have been scoped out of the EIA process as the anaerobic digest plant is a licensed waste facility which is allowed to process poultry manure and is subject to its own Environmental Assessment and Environmental Permit.

6.9 Flooding

- 6.9.1 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.
- 6.9.2 The pre-application enquiry raised concerns that part of the proposed three poultry units were in Flood Zone 3b and that the additional units should not be permitted. Flood Zone 3b is a functional floodplain and comprises land where water has to flow or be stored in times of flood with an annual probability of 1 in 20 or great in any year.
- 6.9.3 The proposed poultry units and associated buildings have been reorientated 90 degrees so that they are sited parallel to the woodland to the west. This has resulted in the proposed development being located wholly within Flood Zone 1 based on our Flood Zone Map, where development is considered appropriate. This is the 'Low Probability' zone, identified in Table 1 of the NPPF Technical Guidance, where land is assessed as having less than a 1 in 1,000 annual probability of river flooding (<0.1%).
- 6.9.4 Given the location of the buildings within Flood Zone 1, the key issue is to ensure that sustainable surface water drainage proposals are in place to maintain greenfield run-off rates post development, including climate change impacts on peak rainfall intensity. Development of this nature on previously undeveloped land must not increase flood risk to third parties as a consequence of the construction of impermeable surfaces.
- 6.9.5 The proposals also include a sustainable drainage system utilising an attenuation pond with restricted discharge to the drainage network limiting flows from the development to a greenfield runoff rate.

7.0 CONCLUSION

- 7.1 It is considered that the Environmental Impact Assessment accompanying the application demonstrates that the environmental impacts of the proposed development are not significant and are capable of being effectively controlled and mitigated. The layout, appearance and scale of the poultry houses, together with the additional landscaping belt will minimise its visual impact on the rural landscape and will not have a detrimental impact upon the residential amenities of the surrounding area. The

recommended conditions would also be supplemented by detailed operational controls available under the Environment Agency's permitting regime. It is concluded that the proposed poultry houses and associated works are acceptable in relation to relevant development plan policies and guidance.

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.

7.3 The recommendation is therefore one of approval subject to the conditions as outlined in appendix 1 attached to this report.

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:

Shropshire Council Core Strategy (February 2011):

CS2 : Shrewsbury Development Strategy

CS5 : Countryside and Green Belt

CS6 : Sustainable Design and Development Principles

CS17 : Environmental Networks

CS18 : Sustainable Water Management

Site Allocations and Management Development Plan (December 2016):

MD2 : Sustainable Design

MD7b : General Management of Development in the Countryside

MD12 : Natural Environment

10.2 Relevant Planning History

20/03120/FUL - Construction of dirty water lagoon. Granted 8th July 2021.

19/00403/PSPPA - Application for prior approval under Part 14, Class J of the Town & Country Planning (General Permitted Development) (England) Order 2015 for the installation of roof mounted solar panels. Prior Approval Not Required 22nd March 2019.

18/04913/FUL - Erection of general-purpose agricultural storage building. Granted 28th November 2018.

18/03798/FUL - Application under Section 73A of the Town and Country Planning Act 1990 for the erection of agricultural dwelling including the siting of a mobile home during construction (re-submission). Refused 24th October 2018.

- 16/00943/FUL - Erection of a secondary agricultural occupancy dwelling for a worker and a temporary dwelling available during construction of dwelling. Refused 12th May 2016.
- 15/01921/EIA - Erection of a poultry building, an expansion of the existing poultry business on site. Granted 20th August 2015.
- 14/03641/FUL - Erection of a farm managers dwelling and residential garage/annex. Granted 12th February 2015.
- 15/01938/EIA - Erection of a poultry building, an expansion of the existing poultry business on site. Granted 20th August 2015.
- 15/01937/EIA - Erection of a poultry building, an expansion of the existing poultry business on site. Granted 20th August 2015.
- 13/04582/VAR - Variation of Condition No. 2 attached to Planning Permission 12/04582/FUL for the construction of a building to house a biomass boiler and fuel store associated with a 150,000 broiler chicken unit (phase 4 of a 5 phase development) to relocate the building to house the biomass boilers to a more central position. Granted 13th February 2014.
- 12/04582/FUL - Construction of a building to house a biomass boiler and fuel store associated with a 150,000 broiler chicken unit (phase 4 of a 5 phase development). Granted 7th March 2013.
- 12/04581/EIA - Construction of a broiler chicken building to house 50,000 birds (Phase 3 of a 5 Phase development). Granted 7th March 2013.
- 12/04580/EIA - Construction of a broiler chicken building to house 50,000 birds (Phase 2 of a 5 Phase development). Granted 7th March 2013.
- 12/04574/EIA - Construction of a broiler chicken building to house 50,000 birds (Phase 1 of a 5 Phase development). Granted 7th March 2013.
- PREAPP/12/00049 - Broiler Farm accommodating up to 300,000 broiler chickens, including the incorporation of an agricultural workers dwelling. Acceptable Development 24th February 2012.
- NS/06/02560/FUL - Erection of a two-storey dwelling with detached double garage in connection with the existing poultry business. Granted 10th January 2007.
- NS/02/00832/FUL - Siting of mobile home and installation of septic tank drainage system. Granted 2nd April 2003.

- NS/99/10588/FUL - Replacement of mobile home in connection with egg production units and installation of septic tank. Granted 10th March 1999.
- NS/96/00583/FUL - Proposed siting of mobile home in connection with proposed egg production units. Granted 31st December 1996.
- NS/96/00582/FUL - Erection of free-range egg production unit (17.1m x 53.375m x 4.3m high) Unit 2. Granted 30th December 1996.
- NS/96/00581/FUL - Erection of free-range egg production unit (17.1m x 53.375m x 4.3m high) Unit 1. Granted 30th December 1996.

11.0 ADDITIONAL INFORMATION

List of Background Papers - Planning Application reference 22/02001/EIA

Cabinet Member (Portfolio Holder) - Cllr Richard Marshall

Local Member - Cllr Brian Williams

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, drawings and documents as listed in Schedule 1 below.
Reason: For the avoidance of doubt and to ensure that the development is carried out in accordance with the approved plans and details.
3. The proposed woodland landscaping belt shall be undertaken in accordance with drawing IPA1254-11 prior to the first occupation of the poultry houses hereby approved. The landscape works shall be carried out in full compliance with the approved plan, schedule and timescales. Any trees or plants that, within a period of five years after planting, are removed, die or become, in the opinion of the Local Planning Authority, seriously damaged or defective, shall upon written notification from the local planning authority be replaced with others of species, size and number as originally approved, by the end of the first available planting season.
Reason: To ensure the provision, establishment and maintenance of a reasonable standard of landscape in accordance with the approved designs.

CONDITION(S) THAT REQUIRE APPROVAL BEFORE THE DEVELOPMENT COMMENCES

4. 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.
5. (a) Prior to the commencement of the development a scheme shall be submitted in writing for the approval of the local planning authority which sets out procedures for ensuring that, wherever practicable, bird rearing in any building hereby permitted and in existing unit 1 as identified on Drawing number IP/MP/02 Existing Site Plan dated April 2022 only takes place during times when the air scrubbing unit for that building is operational. The submitted details shall identify contingency measures to be adopted to in the event that the operation of the scrubbing unit is not possible, such as plant breakdown, and set out procedures to ensure that any bird rearing that takes place without the use of air scrubbing unit is minimised. The poultry rearing operation shall be undertaken in accordance with the approved scheme.
(b) No birds shall be brought to any of the poultry rearing buildings hereby permitted unless the associated air scrubbing unit is in effective working order.
Reason: To minimise the times when the air scrubbing unit is not operational in order to minimise emissions of ammonia and odour and prevent adverse impact on sensitive ecological sites.

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

6. Prior to first occupation / use of the buildings, the makes, models and locations of hedgehog, 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 six external woodcrete bat boxes, suitable for nursery or summer roosting for small crevice dwelling bat species.
 - A minimum of six artificial nests, suitable for starlings (42mm hole, starling specific), sparrows (32mm hole, terrace design) and tits 26mm/32mm entrance hole).
 - A minimum of four hedgehog nesting boxes.
- The boxes shall be sited in suitable locations and where they will be unaffected by artificial lighting. The boxes shall thereafter be maintained for the lifetime of the development.
Reason: To provide enhancements for biodiversity in accordance with MD12, CS17 and section 174 of the NPPF.
7. Prior to first use of the buildings approved by this permission, Inno+ air scrubbers shall be installed on existing broiler unit 1 as identified on Drawing number IP/MP/02 Existing Site Plan dated April 2022 and the three new broiler buildings within the application site permitted under this approval as shown on Drawing number IP/MP/02 Proposed Site Plan dated April 2022. The scrubbers shall be fully operational, at all times when birds are housed within, and maintained in accordance with the manufacturer's instructions, for the lifetime of the buildings.
Reason: To ensure that the proposed development does not adversely affect designated sites through air emissions in accordance with NPPF, Core Strategy CS17 and SAMDev Plan policy MD12.
8. No above ground works shall take place until details of the external materials and colour treatment of all plant and buildings have been submitted to and approved in writing by the local planning authority. The development shall be undertaken in accordance with the approved details and retained as such for the lifetime of the development.
Reason: To ensure a satisfactory appearance of the development.

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

9. No more than 142,500 birds shall be kept in the buildings hereby approved at any one time. The Broiler unit as a whole at Meadowlands Poultry Ltd, Meadowlands, Sleaf, SY4 3HE shall house no more than 460,500 birds at any one time. Records of the number of birds delivered to the site during each cycle shall be made and these shall be made available to the local planning authority on request.
Reason: To prevent adverse impact on designated sites and ancient woodland from ammonia emissions, consistent with MD12 and the NPPF.
10. (a) All manure arising from the poultry buildings hereby permitted shall be taken off site to an anaerobic digester or other suitable disposal or management facility. Manure shall not be exported from the site unless in sealed and covered trailers..
(b) Records of the destination of each load of manure arising from the poultry buildings hereby permitted shall be made and these shall be made available to the local planning authority on request.
Reason: To minimise adverse impacts on residential amenity and avoid pollution to groundwater.

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Northern Planning Committee

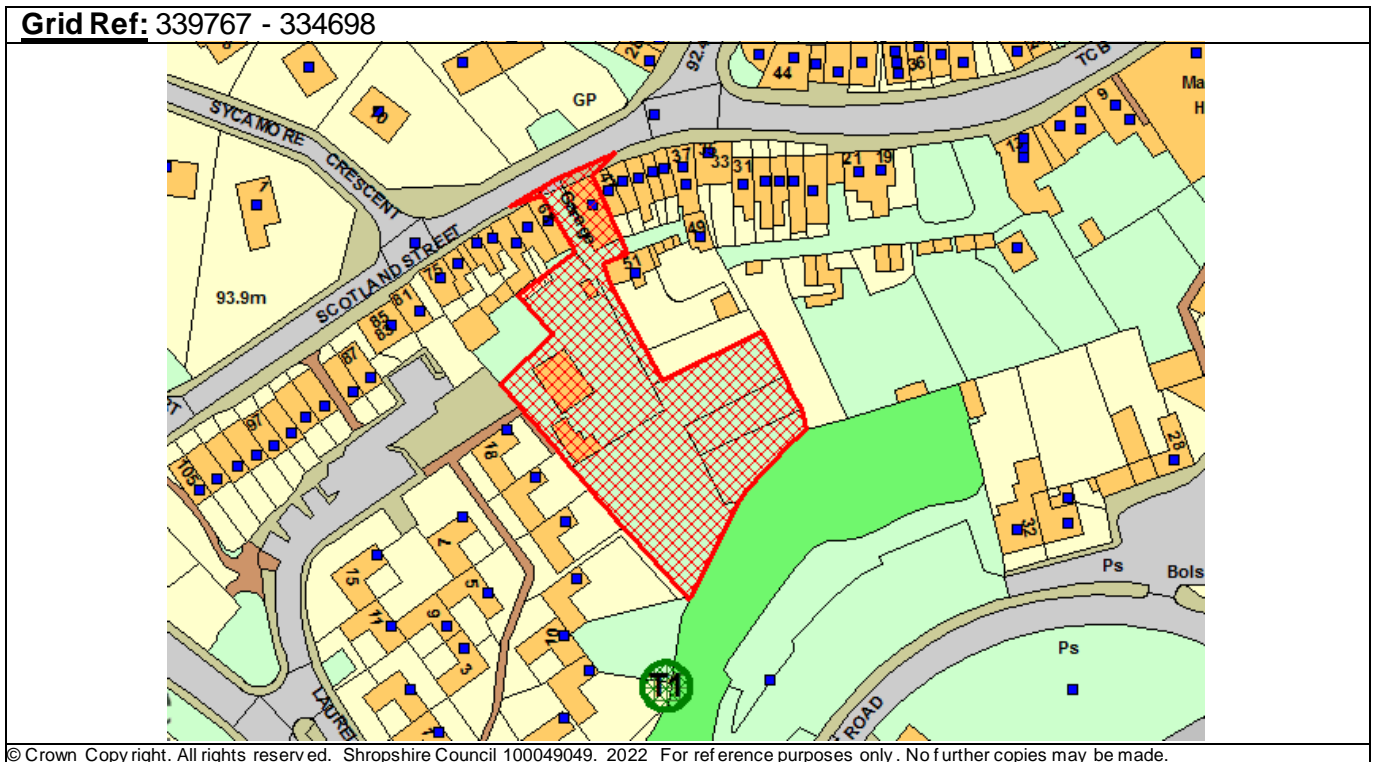
7th March 2023

Development Management Report

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

Summary of Application

Application Number: 22/05178/FUL	Parish:	Ellesmere Urban
Proposal: Demolition of existing garage building, re-aligned access onto Scotland Street and erection of two terraces of 3No dwellings and 2No semi-detached dwellings with associated parking and garden areas		
Site Address: Victoria Garage Scotland Street Ellesmere Shropshire SY12 0DG		
Applicant: Haigh Developments Ltd		
Case Officer: Mark Perry	email: mark.perry@shropshire.gov.uk	



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

REPORT

1.0 THE PROPOSAL

1.1 The submitted application seeks full planning permission for the demolition of buildings, including the existing garage workshop building, creation of a new wider vehicles access and the erection of 8 dwellings. The proposed dwellings comprise of two rows of 3 terraced dwellings and one pair of semi-detached dwellings.

1.2 Each of the dwellings would be two storey, of a traditional cottage style and would provide 3 bedrooms with a GIA of 82.4sqm.

1.3 The application is accompanied by a site location plan, block plan, elevation and floor plans, drainage assessment, site layout plan, transport statement, ecology assessment, arboricultural assessment, flood assessment, heritage assessment, planning statement and design and access statement.

1.4 AMENDMENTS

During the course of the application amended plans have been submitted showing the following amendments:

- Retention of part of the garage building wall to a height of 2.4m to create the bin enclosure.
- Visitor parking to repositioned to protect private right of way
- Repositioning of plots 7 and 8 further from no. 51.
- Internal layout changes to plots 7 and 8

2.0 SITE LOCATION/DESCRIPTION

2.1 The application site measures 0.22 hectares and is located within the town's development boundary and Conservation Area. The application site comprises of the frontage building and the land to its rear. The land at the rear also includes a building used for storage in association with the vehicle garage business. The land and its buildings have been used as a vehicle repair garage since 1910 when it also originally sold fuel. The garage ceased operating in November 2021. The southern portion of the site contains an area of grassland which has also been used for the occasional parking of vehicles in connection with the garage business, part of the site has previously been used as an allotment with a

greenhouse still present; although any cultivation of the land appears to have ceased a number of years ago.

- 2.2 To the south west of the site there is a development of bungalows, some of which back onto the application site. To the east and to the south east is an area of trees and shrubs. Beyond there is a band of trees, to the south is an area of wasteland which is currently used for parking and slightly further from the site there is the Tesco superstore.
- 2.3 There are two dwellings that are accessed from within the application site. These are no's 51 and 49 Scotland Street and these are located to the east of the application site, behind the frontage properties.
- 2.4 There are three terraced properties to the western side of the existing access (no's 63 to 67 (odd)) and front onto Scotland Street and back onto the application site; these are covered by a single listing entry and are grade II listed.

3.0 **REASON FOR COMMITTEE DETERMINATION OF APPLICATION**

- 3.1 In accordance with the Council's adopted 'Scheme of Delegation', the application is referred to the planning committee because the officer recommendation of approval is contrary to an objection from the Town Council which is based on material planning reasons, cannot reasonably be overcome by negotiation or conditions and the Team Manager (Planning) in consultation with the committee chairman or vice chairman agrees that the Town Council has raised material planning issues and that the application should be determined by committee

4.0 **Community Representations**

4.1 **Ellesmere Town Council**

Ellesmere Town Council STRONGLY objects to this application based on the view that the proposed development will add additional traffic directly into a problematic part of a problematic road and that the entrance is completely unsuitable.

Scotland Street has already been identified as too narrow and has been the location of several incidents of either actual road traffic accidents, collisions with pedestrians or many reported near misses.

The Town Council feels VERY strongly about the current health and safety issues already present on Scotland Street and has been continually asking for these concerns to be addressed by Shropshire Council Highways since long before the Cambridge Court development was built further along the road.

Fundamentally, Scotland Street is too narrow for large vehicles to pass each other. This development will add to the problem by increasing traffic onto Scotland Street - both large vehicles during building works, and then an increase of local traffic from new houses, there are also worries regarding the close

proximity of the proposed entrance to the mini roundabout.

It was also highlighted that the brownfield site is not a redundant site, there is a great need for small units in the town. Recently the community almost lost a long-serving local commercial business as they were unable to find suitable land within the town to relocate to, with this in mind councillors are of the opinion that this particular site should be retained for commercial use.

4.2 **Consultee Comments**

4.3 **SC Archaeology-** Concur with the contents of the submitted Heritage Assessment regarding the limited archaeological potential of the site.

4.4 **SC Conservation-** The removal of the building will need to be taken into consideration in the determination of this application and a balanced judgement will be required, having regard to the scale of any harm or loss and the significance of the heritage asset, as required by paragraph 203 of the NPPF and MD13 of SamDev.

Overall we consider the retention and repair of the historic boundary walls to the site should be secured by condition to ensure there will be some mitigation provided in relation to the loss of the garage building.

The provision of sensitively designed and scaled dwellings on this site is likely to provide some enhancement, although it was historically an open space between the commercial historic timber yard and the dwellings to Scotland Street frontage.

4.5 **Affordable Housing-** National policy prevails and no affordable housing contribution would be required in this instance.

4.6 **SC Drainage-** It is recognised that the revised flood modelling demonstrates that the development is outside of Flood Zones 2 and 3, comments regarding the flood extents associated with any revised flood modelling should be further explored in conjunction with the Environment Agency.

Full cross sectional details and specification of the permeable paving must be submitted for approval.

4.7 **Environment Agency-** Whilst the site is located within Flood Zone 3 based on the 'indicative' flood the site may not be at significant risk based on the site specific FRA and information provided. The FRA refers to more detailed modelling that was carried out as part of the Tetchill/Newnes Brook (BWB) study, as part of the FRA undertaken in relation to planning application 19/05445/REM (Residential Development of 99 Dwellings including Associated Access via Canal Way, Landscaping and Flood Mitigation Works (Phase 1 of Application 14/04047/OUT). We were satisfied, in principle, with the study outputs at that time.

In terms of current climate change allowances, the 'Central' allowance for the Severn Middle Shropshire management catchment is 33%, for peak river flow.

The FRA confirms that the 35% allowance applied in the Tetchill and Newnes Brook modelling study is valid (and marginally conservative).

With reference to the more detailed Tetchill and Newnes Brook modelling study, it is suggested that this development site and surrounding land is located in flood zone 1 (low annual probability of fluvial flooding) and not flood zone 3 as presented on the Flood Map for Planning.

4.8 **SC Highways**-no objection subject to conditions and informatives.

The development has been reviewed and reconsidered and is considered unlikely to result in conditions detrimental highway safety to sustain an objection. The Highway Authority therefore raises no objection to the development subject to the conditions listed above being included on any approval.

4.9 **SC Regulatory Services**- no objection subject to conditions regarding the investigation and remediation of any contaminated land.

4.16 **Public Comments**

5 letters of objection and 3 of support received, commenting on the following issues:

Object

Pedestrian and Highway safety

Insufficient visibility

Air and Noise pollution

South wall of existing garage should be retained to provide noise protection from road.

Location of bin storage

Impact on private right of way

Insufficient landscaping

Increased traffic

Impact on flooding

Loss of privacy

Loss of building will impact on area

Support

Makes use of existing site

Shortage of more affordable types of housing

Scheme will generate less traffic than garage use

Improved wider access

Improved outlook

Proposal will prevent land becoming wasteland

Enhancement to area

5.0 **THE MAIN ISSUES**

- Principle of development

- Design, layout and scale
- Biodiversity
- Drainage
- Highways Safety
- Historic environment
- Residential amenity
- Land contamination

6.0 OFFICER APPRAISAL

6.1 Principle of development

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

6.1.2 The site falls entirely within the Ellesmere development boundary. Policy CS3 of the Core Strategy identifies that the Market Towns and other Key Centres will maintain their roles in providing foci for economic development and regeneration. The policy goes on to state that balanced housing and employment development, of an appropriate scale and design that respects the town's distinctive character will take place within the development boundary.

6.1.3 Policy S8 of the adopted SAMDev plan details that the town would accommodate around 800 dwellings during the plan period 2006- 2026.

6.1.4 The proposed development would involve the redevelopment of what comprises a brownfield site. Paragraph 4.83 of the SAMDev plan details that in Ellesmere, and in addition to the 250 dwellings on the allocated housing site, there are significant opportunities for development of windfall sites on brownfield land within the established Development Boundary.

6.1.5 Core Strategy policy CS10 highlights that there is a priority for the re-use of previously developed sites where they are in sustainable locations whilst considering sites that are of historic or ecological value. Similarly, Section 11 of the NPPF places great importance on planning policies and decisions giving substantial weight to the value of using suitable brownfield land within settlements for homes. Paragraph 38 of the NPPF also states that decision-makers at every level should seek to approve applications for sustainable development where possible.

6.1.6 Ellesmere is identified as being a sustainable settlement in the current local plan containing a broad range of local services and facilities with good public transport links providing connections to Oswestry and Shrewsbury. The application site is located just outside of what is defined as the 'Town Centre' in the SAMdev Plan and therefore many facilities are within a short walk of the site.

6.1.7 It is considered that the proposed development would constitute a sustainable and effective re-use of an existing brownfield site within a settlement boundary, where the principle of additional residential development is acceptable subject to adequately addressing other Development Management matters such as heritage, highways, ecology, neighbour impact and flooding which are considered later in this report.

6.2 Design, Layout and Scale

6.2.1 Policy CS6 of the Core Strategy seeks to ensure development protects, restores, conserves and enhances the natural, built and historic environment and is appropriate in scale, density, pattern and design taking into account the local context and character, and those features which contribute to local character.

6.2.2 Policy MD2 'Sustainable Design' of SAMDev seeks to achieve local aspirations for design where possible. Policy CS17 recognises Shropshire's environmental assets, and that new development should contribute towards local distinctiveness including landscape and biodiversity. Both policies require high-quality landscaping to form an important part of development schemes with the new planting of trees, woodland and hedges required to be incorporated to reinforce existing landscape features.

6.2.3 As noted above the site is located within the town's Conservation Area and also within close proximity of a terrace of grade II listed dwellings. Policy CS17 of the Core Strategy requires development to identify, protect, enhance, expand and connect Shropshire's environmental assets, to create a multifunctional network of natural and historic resources.

6.2.4 Similarly, policy MD13 requires that Shropshire's heritage assets are protected, conserved, sympathetically enhanced and restored. Achieved, wherever possible, by avoiding harm or loss of significance to designated or non-designated heritage assets, including their setting.

6.2.5 Policy MD12 'The Natural Environment' also discourages proposals which are likely to have a significant adverse effect, directly, indirectly or cumulatively on the environment including upon visual amenity and landscape character and local distinctiveness unless:

- a) there is no satisfactory alternative means of avoiding such impacts through re-design or by re-locating on an alternative site and;
- b) the social or economic benefits of the proposal outweigh the harm to the asset.

6.2.6 Section 12 of the National Planning Policy Framework reinforces these goals at a

national level, by requiring development to add to the overall quality of the area and be sympathetic to local character and history, including the surrounding built environment and landscape setting, while not preventing or discouraging appropriate innovation or change.

- 6.2.7 The application includes the demolition of the frontage garage building, except for a small part of the rear/ side wall which will be retained at a height of 2.4m to provide screening to the neighbours at no's 51 and 47. The retained wall will incorporate a bin area for use on collection day. Demolition of the building is needed to provide an improved vehicular access to the rest of the site. Currently the access is narrow and any visibility for vehicles is severely compromised by the position of the adjacent buildings. The removal of the building will introduce a much wider gap within the defined streetscene which in turn will provide broader views into the site and towards the front elevations of the proposed terraced dwellings. There is an opportunity to provide a mix of hard and soft landscaping to either side of the improved access drive to mitigate the visual impact of the larger gap in the streetscene; this can be secured by an appropriate landscaping condition.
- 6.2.8 The submitted Design and Access Statement identified the character, scale and detailing of other dwellings in the immediate area and how this has influenced the proposed scheme. The proposed dwellings are of a simple design which are not dissimilar to other dwellings on Scotland Street. The dwellings would be constructed of red brick under a natural slate roof and include details such as traditional casement style windows, reconstituted stone heads and cills and arched heads above entrance doors.
- 6.2.9 The proposed development would create a mews style development which would be entered into via a small private driveway. The dwellings would then be positioned around a central shared space. Plots 1-4 would have their car parking provided to the sides of the dwellings and plots 5-8 would have parking provided to the side of the semi-detached dwelling. Each of the properties would have two parking spaces available plus four additional visitor spaces. As such when viewed from Scotland Street most of the parked cars would not be visible, instead the proposed dwelling being the most dominant feature of the site.
- 6.2.10 All of the dwellings will benefit from private rear gardens ranging in depth from 8.9m to 10m. Plots 7 and 8 will also have larger front gardens due to their position within the site.
- 6.2.11 It is considered that the density of the proposed development is appropriate given its location within the heart of the town where a higher density of development is prevalent. Each of the dwellings would be afforded adequate private amenity space and a suitable level of parking provision. The removal of the frontage building will alter the character of this part of the streetscene, but this is not considered to be to its detriment; subject to appropriate detailing of the access and the areas of land to either side of the driveway.

6.3 Impact on Heritage

- 6.3.1 The application site is located within the town's Conservation Area and within close proximity to the grade II listed buildings. The applicant has submitted a Heritage Impact Assessment (HIA) which is considered to satisfy the requirements of paragraph 194 of the NPPF and policy MD13 of SAMdev.
- 6.3.2 The garage building proposed to be demolished was originally built as a chapel in 1840. It then became a vehicle repair and petrol filling station in the 1940's after being used as a cycle shop. Contrary to the submitted HIA the Council's Conservation Officer considers that the existing garage building is a non-designated Heritage Asset; as defined by Annex 2 of the NPPF.
- 6.3.3 The site is located entirely within the conservation area, which is a designated heritage asset. Therefore Section 72 of the Planning (Listed Building & Conservation Area) Act 1990 is applicable requiring decision takers to pay special attention to the desirability of preserving or enhancing the character or appearance of the conservation area. Paragraph 199 of the NPPF states that when considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset's conservation (and the more important the asset, the greater the weight should be). This is irrespective of whether any potential harm amounts to substantial harm, total loss or less than substantial harm to its significance.
- 6.3.4 In this case the Conservation Area will be impacted by the loss of the existing garage building and then by the subsequent development of the site which involves the creation of the new wider access. It is considered by Officers that the level of harm amounts to less than substantial harm.
- 6.3.5 Paragraph 200 of the NPPF details that any harm to the significance of a designated heritage requires that any harm to, or loss of the significance of a designated heritage asset should require clear and convincing justification. Paragraph 202 then requires that the harm should be weighed against the public benefits of the proposal including, where appropriate, securing its optimum viable use.
- 6.3.6 Other than the very front section, most of the development site makes little contribution towards the character of the Conservation because of its back-land position and its largely unkempt appearance. The loss of the garage building will result in a larger gap within the frontage which will be replaced with a more substantial and engineered access to service the proposed dwellings. This is in contrast to the narrow and discreet access arrangement that currently exist and will therefore, to a limited extent, change the character of this part of the Conservation Area by creating a break within the frontage development. The development of the houses themselves will have only a limited impact on the Conservation Area because of the sites position behind existing frontage development.
- 6.3.7 The proposed development will deliver the improvement of a sub-standard

access and the provision of additional housing on a brown field site in a sustainable town centre location. It is considered that that a sensitively designed development, such as the one proposed, would provide some enhancement to this site. It is considered by Officers that without the site being redeveloped it would likely remain unkempt which could be to the detriment of the Conservation Area. Overall, it is considered that that the less than substantial harm to the Conservation Area is outweighed by the public benefits.

- 6.3.8 Listed buildings front onto Scotland Street and sit immediately to the western side of the access. These are designated heritage assets with the single listing entry relating to numbers 63, 65 and 67, which are modest early C19 terraced dwellings. As such paragraph 66 of the Planning (Listed Building & Conservation Area) Act 1990 requires that in considering whether to grant planning permission special regard must be given to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses. In this case it is the setting that may be affected by the proposed development. The tests set out in paragraphs 199, 200 and 202 of the NPPF are once again applicable.
- 6.3.9 At the rear of the listed dwellings there has been a series of extensions some of which do not have the character or value of their listed status. As such it is considered that the primary historic value of the dwellings are their front elevations and how they address Scotland Street. Nonetheless, despite the proposed development being to the rear of the listed buildings, how development impacts upon their setting is a key material consideration
- 6.3.10 The proposed development is positioned directly to the rear of the listed buildings, there would be a distance of 18m between the side elevation of proposed plot 1 and the nearest part of the listed building. It is considered that the distance of separation, the positioning and scale of the proposed development ensures that there would be no detrimental harm to their setting. The proposed development would provide the opportunity for some enhancement to the rear of the listed buildings by providing sympathetic hard and soft landscaping and the removal of the unsympathetic car park and wasteland appearance of the rest of the site.
- 6.3.11 As noted above the existing garage building is considered by Officers to be a non-designated heritage asset. Paragraph 203 of the NPPF requires that the effect of an application on the significance of a non-designated heritage asset be taken into account in determining the application. It requires a balanced judgement to be undertaken having regard to the scale of any harm or loss and the significance of the heritage asset.
- 6.3.12 In this case the garage building will be completely lost with the exception of part of the rear and side walls. These will be retained, and reduced in height, to provide a visual screen for the nearest neighbours. The retention of this section along with the photographic record submitted as part of the application will also help evidence the historic existence of the building. The existing building has

been significantly altered from its original chapel use with the HIA detailing that very little evidence of its original use surviving. It is considered that the benefits of developing the site, which does necessitate the removal of the existing building, outweighs the harm resulting from the loss of a non-designated heritage asset.

- 6.3.2 It is considered that the proposed development and any impacts on the historic environment are acceptable and broadly in accordance with the NPPF and the local plan as a whole, and therefore acceptable in relation to Sections 66 and 72 of the Planning (Listed Building & Conservation Area) Act 1990 and CS17 and MD13

6.4 Ecology

- 6.4.1 The NPPF places high importance on protection of biodiversity interests and new development should minimise impacts on biodiversity. Planning permission should be refused where significant harm from a development cannot be avoided. It also places great weight on conserving and enhancing the natural environment. Core Strategy Policies CS6 and CS17 require development proposals to respect the natural environment of Shropshire and its biodiversity interests. Policy MD12 of the SAMDev, amongst other matters, encourages development which appropriately conserves, enhances, connects, restores or recreates natural assets, particularly where this improves the extent or value of those assets which are recognised as being in poor condition. Development should minimise impacts upon biodiversity and provide net gains in biodiversity wherever possible.
- 6.4.2 The site has been used for the repair and maintenance of vehicles with the open space being used for parking storing vehicles and the outbuilding used as associated storage. A portion of the site was historically used as allotments, but this has become unkempt over more recent years.
- 6.4.3 The application is accompanied a Preliminary Ecological Assessment and this has been considered by the Council's Ecologist who raises no objections to the proposed development and recommends conditions with regards to ecological mitigation, bat and bird boxes, landscaping plan and lighting plan should planning permission be granted.
- 6.4.4 With regards to biodiversity, the proposed development with mitigation as discussed above is considered acceptable and in accordance with policies CS5 and CS17 of the Shropshire Core Strategy, MD12 of the SAMDev and objectives of the NPPF.

6.5 Drainage/ Flooding

- 6.5.1 Core Strategy policy CS18 relates to sustainable water management and seeks to ensure that surface water will be managed in a sustainable and coordinated way, with the aim to achieve a reduction in the existing runoff rate and not result in an increase in runoff.
- 6.5.2 The application site, according to the Environment Agencies Indicative Flood

Map, shows the site as falling within flood zone 3. In response to this the applicant has provided a site specific Flood Risk Assessment to demonstrate that the site may in fact not be at significant risk from flooding.

- 6.5.3 The submitted FRA refers to more detailed modelling that was carried out as part of the Tetchill/ Newnes Brook (BWB) study which was undertaken in relation to a planning application for a nearby site off Canal Way which was for 99 dwellings (19/05445/REM). On the basis of the FRA and the previously detailed modelling the Environment Agency are satisfied that the current application site is located in flood zone 1 and therefore has a low annual probability of fluvial flooding and not flood zone 3 as presented on the Flood Map for Planning.
- 6.5.4 The applicant has detailed that foul drainage would be to the existing mains sewer and that surface water would be to a sustainable drainage system and mains sewer via a perforated pipe. The Council's Drainage Officer raises no objections to the scheme but further details concerning the cross-sections, details of the permeable paving are required; these could be secured by an appropriate planning condition.
- 6.5.5 It is considered the flood and drainage matters are satisfactory and in accordance with policies CS6 and CS18 of the Shropshire Core Strategy and the NPPF.

6.6 Highway Safety

- 6.6.1 The NPPF, at section 9, seeks to promote sustainable transport. At paragraph 111 it states that, "Development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe".
- 6.6.2 Core Strategy policy CS6 seeks to ensure that proposals likely to generate significant levels of traffic be located in accessible locations, where opportunities for walking, cycling and use of public transport can be maximised and the need for car based travel reduced.
- 6.6.3 As noted above, the authorised use of the buildings and the wider site is as a vehicle repair garage. The transport statement submitted indicates that the business carried out vehicle servicing, MOT's and repairs as well as car sales, with the business ceasing in November 2021.
- 6.6.4 Access to the premises was via the narrow entrance to the side of the garage building. The Transport Statement indicated that there were around 25 arrivals and 25 departures a day as the 3 employees attend the site along with customers dropping off and picking up their vehicles.
- 6.6.5 The existing junction with the adopted highway provides only 4.2m of visibility in a westerly direction and 4.4m in an easterly direction. By demolishing the existing building and widening the access the extent of visibility would be increased to 11.2m to the west and 10.7 to the east, this is a significant improvement over the

existing arrangement.

- 6.6.6 In addition to the improvements to the access, the Traffic Statement anticipates that the removal of the car servicing, MOT, repair garage to be replaced by eight dwellings would result in a reduction in the number of vehicle trips over an entire day.
- 6.6.7 The Council's Highways Officer has considered the proposal and submitted Transport Statement and considers that the development of eight dwellings is unlikely to result in conditions that are detrimental to highway safety to sustain an objection. The Highways Officer suggests a number of conditions should permission be granted.
- 6.6.8 The Town Council have made comments and objections in respect of highways matters, in particular regarding the narrow width of Scotland Street and its ability to accommodate increased traffic movement. As noted above the existing commercial use of the site could generate more vehicle movements through the existing poor access than the proposed residential use would though the much improved access. In order to minimise any impact on the highway network during construction it would be necessary for the developer to provide a Construction Method Statement.
- 6.6.9 As such in respect of highway matters the application is considered acceptable and in accordance with local plan policies CS6 and MD2 and the overall aims of the NPPF.

6.7 Residential Amenity

- 6.7.1 The authorised use of the site as a vehicle repair garage is a use that is not ordinarily suited to a location within close proximity of dwellings because of the potential for noise or nuisance to be caused. Whilst an impact on amenity may not have been an issue historically on this site, this may not necessarily be the case were a new operator to take over the site and there may be compatibility issues between the vehicle garage and residential land uses. As such it is considered that the redevelopment of the site for eight dwellings would be a more appropriate use for the site, thereby removing the potential for neighbour disturbance. As noted above the proposed use would also generate less vehicle movements than the existing use does which would also be of benefit to existing residents in terms of amenity.
- 6.7.2 The dwellings to the south west consist of four L-shaped single storey properties. Each of these dwellings has a gable projecting out towards the application site with the wall closest to the boundary containing no windows. The projecting gable on the neighbouring dwellings are around 5.6m off the shared boundary which is defined by the tall historic brick wall referred to earlier in this report. The rear gardens of proposed plots have depths of 9.3m and the distance between the rear windows of the proposed dwellings on plots 1-6 and the rear windows on the neighbouring dwellings is around 20m. It is considered that taking into account the distance of separation and the boundary treatment there would be no

detrimental loss or privacy to these neighbours. The orientation of the site would also mean that there would not be any loss of light experience by the neighbour.

- 6.7.3 Plots 7 and 8 would be positioned perpendicular to plots 1-6 with their front elevation facing towards no's 49 and 51 Scotland Street. These neighbouring dwellings sit behind the Scotland Street frontage and are accessed by the same access as the development site. There would be around 31 m distance between the front elevation of the proposed dwelling and the rear elevation of no 51. There would also be a distance of 9m between the front elevation of the proposed dwellings and the shared boundary. It is considered that given the distance of separation that there would be no detrimental loss of privacy to the neighbour.
- 6.7.4 At present no. 51 fronts onto the rear wall of the garage building that is to be demolished. By removing the building no.51 would then be exposed to the passing traffic on Scotland Street, albeit at a reasonable distance. To address the concerns of the neighbours part of the rear/ side walls of the existing garage building would be retained and lowered to 2.4m; providing screening and protection for the neighbour and also providing an enclosure for bins to be kept on refuse collection day.
- 6.7.5 Officers have been made aware of a private right of way that provides access to the land at the rear of no. 51. Whilst this is a civil matter and not something that can be taken into account in the consideration of this planning application, the applicant has amended the plans to show that the private right of way will remain available and unobstructed.
- 6.7.6 It is considered overall that the proposed development would not detrimentally impact upon the amenities of neighbouring occupiers. Some of the neighbours would benefit from the improvement to the access and also it would remove any potential of a vehicle repair garage becoming a 'bad neighbour' in respect of any noise and disturbance that could be caused if the use was to continue.
- 6.8 Land Contamination**
- 6.8.1 Due to its historic use as a garage its location that backs onto a former timber yard, the application site has been identified as potentially contaminated land under Shropshire Councils Environmental Protection Act 1990 Part 2A responsibilities.
- 6.8.2 The Council's Environmental Protection Officer has commented on the application and has not raised any objections subject to a condition requiring the submission of a Site Investigation Report. This report will assess the nature and extent of any contamination on the site and any necessary remediation.
- 6.9 Conclusion**
- 6.9.1 The proposed development would deliver eight dwellings on a previously developed site in a sustainable location where there are various services and

facilities available within a short walk. The proposal does include the demolition of the frontage building which Officers consider to be a non-designated heritage asset, the site is also located within the Conservation Area and adjacent to a grade II listed building. Whilst the loss of the building would result in less than substantial harm it is considered that this is outweighed by the public benefits of significantly improving the access to the site which in turn would facilitate the ability to utilise this brownfield site to provide additional housing.

- 6.9.2 Any issues relating to the flood risk of the site have been satisfied to the satisfaction of the Environment Agency.
- 6.9.3 The proposed design and scale of the development is considered to be acceptable in terms of its visual impact on the site, its surroundings, the conservation area and also the setting of the listed building. It is also considered that there would be no detrimental impact or harm caused to neighbours, highway safety or biodiversity.
- 6.9.4 It is considered that the proposal accords with the overall aims and provisions of the NPPF and as a whole and policies CS3, CS6, CS11, CS17, CS18 of the Core Strategy and MD1, MD2, MD3, MD12, MD13 and S8 of the adopted SAMDev plan. As such the application is recommended for approval subject the conditions as set out in Appendix 1.

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:

CS3 - The Market Towns and Other Key Centres
 CS6 - Sustainable Design and Development Principles
 CS10 - Managed Release of housing Land
 CS17 - Environmental Networks
 MD2 - Sustainable Design
 MD3 - Managing Housing Development
 MD12 - Natural Environment
 MD13 - Historic Environment

RELEVANT PLANNING HISTORY:

PREAPP/22/00065 3-5 3 bed detached properties on the land to the rear of the garage NPW
 3rd March 2022

PREAPP/22/00435 Demolition of Existing Garage Building, Re-Aligned Access onto Scotland
 Street and Erection of 2 terraces of 3 x 3 Bedroom Houses and 2 x 3 Bedroom Semi Detached
 Houses with Associated Parking and Garden Areas PREUDV 20th September 2022

22/05178/FUL Demolition of existing garage building, re-aligned access onto Scotland Street
 and erection of two terraces of 3No dwellings and 2No semi-detached dwellings with
 associated parking and garden areas PDE

11. Additional Information

View details online: <http://pa.shropshire.gov.uk/online-applications/applicationDetails.do?activeTab=summary&keyVal=RLEKVJTDKGG00>

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 Richard Marshall
Local Member
Cllr Geoff Elner
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, drawings and documents as listed in Schedule 1 below.

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

CONDITION(S) THAT REQUIRE APPROVAL BEFORE THE DEVELOPMENT COMMENCES

3. No development approved by this permission shall commence until there has been submitted to and approved by the local planning authority a scheme of landscaping and these works shall be carried out as approved. The submitted scheme shall include:

Means of enclosure

Hard surfacing materials

Planting plans

Written specifications (including cultivation and other operations associated with plant and grass establishment)

Schedules of plants, noting species, planting sizes and proposed numbers/densities where appropriate

Implementation timetables

Reason: To ensure the provision of amenity afforded by appropriate landscape design and enhancement of the conservation area.

4. 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 before development commences.

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.

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

- ' a traffic management and hgv routing plan and local community protocol
- ' the parking of vehicles of site operatives and visitors
- ' loading and unloading of plant and materials
- ' storage of plant and materials used in constructing the development
- ' wheel washing facilities

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

6. 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.

7. Prior to any built development commencing a scheme of foul drainage, and surface water drainage shall be submitted to and approved in writing by the Local Planning Authority. Details shall include full cross sectional details, specification of the permeable paving and exceedance flow route plan. The approved scheme shall be fully implemented before the development is occupied/brought into use (which ever is the sooner).

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

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

8. The lighting will not impact upon ecological networks and/or sensitive features, e.g. bat and bird boxes, trees, and hedgerows. The 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.

9. - A minimum of 1 external woodcrete bat boxes or integrated bat bricks, suitable for nursery or summer roosting for small crevice dwelling bat species.
- A minimum of 2 artificial nests, of either integrated brick design or external box design, suitable for starlings (42mm hole, starling specific), sparrows (32mm hole, terrace design), swifts (swift bricks or boxes), house martins (house martin nesting cups), swallows (swallow nesting cups) and/or small birds (32mm hole, standard design).

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

Reason: To ensure the provision of roosting and nesting opportunities, in accordance with MD12, CS17 and section 180 of the NPPF.

10. The revisions to the access junction apron, radii and uncontrolled pedestrian crossing points shall be constructed in accordance with Shropshire Council's specification currently in force for an access and shall be fully implemented prior to commencing development of any of the dwellings hereby approved.

Reason: To ensure the formation and construction of a satisfactory access in the interests of highway safety.

11. Prior to the dwellings hereby permitted being first occupied the access, parking and turning areas shall be satisfactorily completed, laid out and maintained in accordance with the Proposed Site Plan Drawing No. W22/2778/02 Rev D and retained for the lifetime of the development.

Reason: To ensure the formation and construction of a satisfactory access and parking facilities in the interests of highway safety

12. No construction (and/or demolition) works shall take place before 0730 hours on weekdays and 0800 hours on Saturdays nor after 1800 hours on weekdays and 1300 hours on Saturdays; nor at anytime on Sundays, Bank or Public Holidays.

Reason: To protect the amenities of occupiers of nearby properties from potential nuisance.

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Northern Planning Committee

7th March 2023

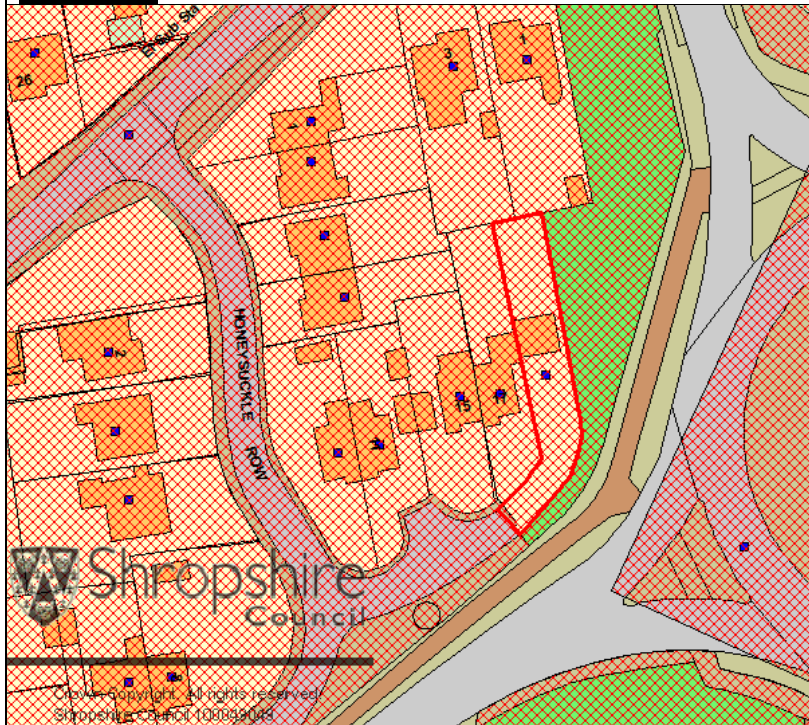
Development Management Report

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

Summary of Application

Application Number: 22/05603/FUL	Parish:	Shrewsbury Town Council
Proposal: Erection of new detached dwelling following demolition of existing garages		
Site Address: 17 Honeysuckle Row Shrewsbury Shropshire SY3 7TW		
Applicant: Miss Fearn Nicholas		
Case Officer: Didi Kizito		email: didi.kizito@shropshire.gov.uk

Grid Ref: 350010 - 311266



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Recommendation:- Approve subject to the conditions as set out in Appendix 1.

REPORT

1.0 THE PROPOSAL

- 1.1 This application seeks planning permission for the erection of new detached dwelling following demolition of existing garages.

2.0 SITE LOCATION/DESCRIPTION

- 2.1 The site is at the end of the cul de sac east 17 Honeysuckle Row. The site is within Shrewsbury development boundary.

3.0 REASON FOR COMMITTEE DETERMINATION OF APPLICATION

- 3.1 In accordance with the Council's adopted 'Scheme of Delegation', the application is referred to the planning committee because the officer recommendation of approval is contrary to an objection from the Town Council which is based on material planning reasons, cannot reasonably be overcome by negotiation or conditions and the , the Team Manager (Planning) in consultation with the committee chairman or vice chairman agrees that the Parish/Town Council has raised material planning issues and that the application should be determined by committee.

Local member:

I am concerned with regards to this proposal. The plot for the proposed property to the right of 17 Honeysuckle Drive is, in my opinion too small for a detached dwelling. If this were being applied for by anyone other than the owners/occupants of 17 Honeysuckle those occupants would undoubtedly object. The gap between the two properties will be very small.

There is also concern regarding the mature hedgerow between the proposed development site and Sutton Lane. This must be protected.

There will also be issues regarding the overlooking of rear gardens on Primrose Drive which would need to be shielded.

Cllr Comments

Objection to planning application 22/05603 FUL at 17 Honeysuckle Row Shrewsbury. This would be a case of crowbar-ing in a new dwelling into a very small space.

The proposed house would be squeezed into the end of the cul-de-sac - almost certainly causing traffic problems and also being detrimental to the aesthetics of the area.

4.0 Community Representations

Consultee Comment

Shrewsbury Town Council:

The Town Council objects to this application on the grounds of overdevelopment. The plot appears too small for a detached dwelling and the gap between the proposed and existing properties would lead to potential terracing effect on the street scene which would be out of character and detrimental to the local area.

SC Affordable Houses: No objection

SUDS: The proposed surface water soakaway is acceptable.

SC Highways:

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

Conditions:

Traffic Management Plan

No development shall take place, including any works of demolition, until a Traffic Management Plan for construction traffic has been submitted to, and approved in writing by, the local planning authority, to include a community communication protocol. The approved Statement shall be adhered to throughout the construction period.

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

Access, Parking, Turning

The access and parking areas shall be satisfactorily completed and laid out in accordance with the Site Plan Drawing No. 834.02 A prior to the dwelling being occupied. The approved parking and turning areas shall thereafter be maintained at all times for that purpose.

Reason: To ensure the formation and construction of a satisfactory access and parking facilities in the interests of highway safety

Access Apron

The access apron shall be constructed in accordance with Shropshire Council's specification currently in force for an access and shall be fully implemented prior to the dwelling being occupied.

Reason: To ensure the formation and construction of a satisfactory access in the interests of highway safety.

Gates

Notwithstanding the provisions of the Town and Country (General Permitted Development) Order 2015 or any order revoking and re-enacting that Order with or without modification, no access gates or other means of closure shall be erected within 5.0 metres of the highway boundary.

Reason: To provide for the standing of parked vehicles clear of the highway carriageway in the interests of highway safety.

Observations/Comments:

Based upon the information contained within the application it is considered that, subject to the conditions listed above being included on any approval, there are no sustainable Highway grounds upon which to base an objection.

It is advised that prior to the submission of the required information for the Traffic Management Plan, the applicant/developer should contact Shropshire Council's Street Works Team on the following link to approve details prior to applying for the discharge of the condition.

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

Informative notes:

Protection of Visibility Splays on Private Land

The applicant's attention is drawn to the need to ensure that the provision of the visibility splay(s) required by this consent is safeguarded in any sale of the application site or part(s) thereof.

Works on, within or abutting the public highway

This planning permission does not authorise the applicant to:

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

- undertaking the disturbance of ground or structures supporting or abutting the publicly maintained highway

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

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

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

No drainage to discharge to highway

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

Waste Collection

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

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

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

Public Comments

Comments objecting to the scheme have been received. Concerns raised include, Notification of the development, previous applications refused, over development of site, highway, traffic and access issues, lack of measurements on plans, impact on trees, loss of privacy, overbearing, construction works.

5.0 THE MAIN ISSUES

Principle of development
Siting, scale and design of structure
Amenity
Highways

6.0 OFFICER APPRAISAL

6.1 Principle of development

6.1.1 Shrewsbury is identified within policy CS2 of the adopted core strategy as a major focus within Shropshire for the provision of housing. The application site is located within the built up area of Shrewsbury and in principle the site is therefore in an area that is acceptable for housing development.

6.1.2 Policy CS6 of the adopted core strategy requires that all development be designed to a high quality and aims to ensure that all development protects, restores, conserves and enhances the natural, built and historic environment and that new development is appropriate in scale, density and design taking into account the local context and character. New development is also required to include appropriate landscaping and car parking provision and needs to safeguard residential and local amenity.

6.2 Siting, scale and design of structure

6.2.1 The proposed 3 bedroom dwelling would be located at the end of the cul de sac of this section of Honeysuckle Row. An existing double garage would be demolished and replaced with a two storey detached residential dwelling. The scheme has been amended whereby the width has been marginally reduced so that it is relatively in keeping with the sizes of neighbouring dwelling. Equally, the dwelling has been repositioned more centrally within the side boundaries and away from the no 17. The dwelling would measure approximately 6.3m wide, 11.8m deep and ridge height of 7.5m. In terms of design, whilst render is not a common material within vicinity of the site, it is a commonly utilised material for residential dwellings. The overall design cues characteristic of those of neighbouring dwellings are viewed favourably, as they help to integrate the new dwelling within the context of the site thus meeting the overarching aims of CS6 and MD2. The scheme proposes the installation of solar panels to the roof. Policies CS6, CS8 and MD encourage infrastructure which adapts to climate change, including renewable energy generation, where this has no significant adverse impacts on visual and residential amenities. Considering the hidden location of the site it is not considered there would be an adverse impact on the locality.

6.3 Amenity

6.3.1 Where visual amenity is concerned, the dwelling would be located at the end of the cul-de-sac and therefore not considered to give rise to a detrimental harm. The proposed dwelling is not considered to be out of scale and character with neighbouring dwellings. With the amended plans, there is a gap offering a visual break between the semi-detached dwellings and the proposed detached dwelling.

6.3.2 The amenity scenario of occupiers of neighbouring dwellings must be carefully considered. Due to proximity of the development and side windows of no 17, the impact of the development on existing windows would need to be assessed. While it

is recognised there would be an impact on outlook, it is also recognised no 17 has additional windows serving habitable rooms and therefore on balance the scheme would not result in an unacceptably compromised scenario of overshadowing and loss of amenity to existing dwelling no 17. The overall window placement and design of the development also matches that of the neighbouring dwellings. The existing situation in relation to rear windows to the rear on existing dwellings on Honeysuckle Row and distance of approximately 30m to the dwellings at the rear along Primrose Drive would predominately remain unchanged. In relation to neighbouring dwellings abutting the rear boundary of the site, it is not considered the scheme would result to unacceptable impact. The proposed dwelling would be set along the existing development line on Honeysuckle Row and would have an adequate rear garden as private amenity space.

6.4 Highways

6.4.1 Comments relating to access, road safety and traffic are noted. The Highway team have been consulted and raise no objection. The site is accessed via an existing lane off Honeysuckle Row. The lane currently serves 4 dwellings and would end up serving a total of 5 dwellings. It is unlikely that this development would add to the existing highway conditions to a level that is considered unacceptable and resulting in harm to highway safety and highway users. In addition, it is worth noting this section of the 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, with the site being in a residential area 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 Concerns about issues arising from the construction works such as noise, construction vehicles, traffic are noted. Paragraph 55 of the NPPF makes it clear that planning conditions should be kept to a minimum, and only used where they satisfy the tests. In this instance, the Highway Team have provided a condition on Traffic Management Plan that officers feel would be reasonable to apply for this development.

6.5 Other matters

6.5.1 Comments relating to other schemes where planning has been refused are noted. However, this application site is judged on its own merits and constraints. The application site is within Shrewsbury development boundary where the principle of erecting a new dwelling is acceptable in principle.

With respect to the position of the site notice, an officer site visit found that the notice was visible on the signage of Honeysuckle Road when approaching the junction from Primrose Drive. By virtue of the Council being in receipt of public comments in respect of this development this evidence that there is a public awareness of the application.

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 Shrewsbury and therefore the principle for residential development is acceptable. The proposed dwelling is in a sustainable location accessible to services and facilities. On balance, the scheme is of a suitable layout and design that would not have a detrimental impact on neighbouring properties.

8.0 Risk Assessment and Opportunities Appraisal

8.1 Risk Management

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

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

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

8.2 Human Rights

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

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

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

8.3 Equalities

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

9.0 Financial Implications

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

10. Background

Relevant Planning Policies

Central Government Guidance:

West Midlands Regional Spatial Strategy Policies:

Core Strategy and Saved Policies:

RELEVANT PLANNING HISTORY:

22/05603/FUL Erection of new detached dwelling following demolition of existing garages PCO SA/85/1070 Alterations and additions at the rear to provide a single storey mono pitched roof enlarged dining room, utility room and wc. PERCON 16th January 1986
SA/83/0288 Erection of a flat roof extension to enlarge existing private garage. PERCON 3rd May 1983
SA/88/0692 Erect a single storey flat roof rear extension to provide additional living accommodation. PERCON 28th July 1988

SA/78/0295 Erection of 144 dwellings with garages and associated works. PERCON 11th July 1978

SA/75/0822 Erection of 133 dwellings. PERCON 3rd February 1976

11. Additional Information

View details online: <http://pa.shropshire.gov.uk/online-applications/applicationDetails.do?activeTab=summary&keyVal=RMUFMQTDL4A00>

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 Richard Marshall

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, drawings and documents as listed in Schedule 1 below.

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

3. The access and parking areas shall be satisfactorily completed and laid out in accordance with the approved plans prior to the dwelling being occupied. The approved parking and turning areas shall thereafter be maintained at all times for that purpose.

Reason: To ensure the formation and construction of a satisfactory access and parking facilities in the interests of highway safety

4. The access apron shall be constructed in accordance with Shropshire Council's specification currently in force for an access and shall be fully implemented prior to the dwelling being occupied.

Reason: To ensure the formation and construction of a satisfactory access in the interests of highway safety.

CONDITION(S) THAT REQUIRE APPROVAL BEFORE THE DEVELOPMENT COMMENCES

5. No development shall take place, including any works of demolition, until a Traffic Management Plan for construction traffic has been submitted to, and approved in writing by, the local planning authority, to include a community communication protocol. The approved Statement shall be adhered to throughout the construction period.

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

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

6. 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.

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

7. 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-D 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.

Informatives**1. Protection of Visibility Splays on Private Land**

The applicant's attention is drawn to the need to ensure that the provision of the visibility splay(s) required by this consent is safeguarded in any sale of the application site or part(s) thereof.

Works on, within or abutting the public highway

This planning permission does not authorise the applicant to:

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

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

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

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

No drainage to discharge to highway

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

Waste Collection

The applicant's attention is drawn to the need to ensure that appropriate facilities are provided, for the storage and collection of household waste, (i.e., wheelie bins & recycling boxes). Specific consideration must be given to kerbside collection points, to ensure that all visibility splays, accesses, junctions, pedestrian crossings, and all trafficked areas of highway (i.e., footways, cycle ways & carriageways) are kept clear of any obstruction or impediment, at all times, in the interests of public and highway safety.

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

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

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Northern Planning Committee

7th March 2023

SCHEDULE OF APPEALS AS AT COMMITTEE 7 MARCH 2023

LPA reference	22/01290/FUL
Appeal against	Appeal against Refusal
Committee or Del. Decision	Delegated
Appellant	Mr S Groves
Proposal	Erection of four detached dwellings with garages, alterations to access and associated works
Location	Land South Hall Drive, Hadnall
Date of appeal	09.11.2022
Appeal method	Written Representations
Date site visit	
Date of appeal decision	
Costs awarded	
Appeal decision	

LPA reference	22/02915/FUL
Appeal against	Appeal against Refusal
Committee or Del. Decision	Delegated
Appellant	Mr A Lewis
Proposal	Erection of an extension to an existing workshop to create a live/work unit
Location	New House Farm, Sleap, Harmer Hill
Date of appeal	30.09.2022
Appeal method	Written Representations
Date site visit	
Date of appeal decision	
Costs awarded	
Appeal decision	

LPA reference	22/01740/FUL
Appeal against	Appeal Against Refusal
Committee or Del. Decision	Delegated Decision
Appellant	SY Homes Limited
Proposal	Erection of two blocks comprising 32 residential apartments; associated demolition, parking, amenity areas and landscaping (resubmission)
Location	Lord Hill Hotel Abbey Foregate Shrewsbury
Date of appeal	28.11.2022
Appeal method	Hearing
Date site visit	
Date of appeal decision	
Costs awarded	
Appeal decision	

LPA reference	22/01902/FUL
Appeal against	Refusal
Committee or Del. Decision	Delegated
Appellant	Mr Coxon
Proposal	Change of Use of land from equestrian (Sui Generis) to residential (C3) and the siting of an annexe building ancillary to the main residential dwelling to include decked area.
Location	The Cottage, Edgerley, Oswestry
Date of appeal	03.01.2023
Appeal method	Written Representations
Date site visit	
Date of appeal decision	
Costs awarded	
Appeal decision	

LPA reference	22/00865/OUT
Appeal against	Refusal
Committee or Del. Decision	Delegated
Appellant	Mr James McNally
Proposal	Outline planning permission (all matters reserved) for residential development
Location	Proposed Residential Development Land South Of Garside Close, Hengoed, Oswestry
Date of appeal	03.01.2023
Appeal method	Written Representations
Date site visit	
Date of appeal decision	
Costs awarded	
Appeal decision	

LPA reference	21/05534/FUL
Appeal against	Refusal
Committee or Del. Decision	Delegated
Appellant	Mrs C Sheehan
Proposal	Erection of replacement garden room extension, removal of modern brick chimney stack and replacement with a stainless steel flue (revised scheme)
Location	Big House, Station Road, Whittington
Date of appeal	03.01.2023
Appeal method	Written Representations
Date site visit	
Date of appeal decision	
Costs awarded	
Appeal decision	

LPA reference	21/05535/LBC
Appeal against	Refusal
Committee or Del. Decision	Delegated
Appellant	Mrs C Sheehan
Proposal	Erection of a replacement garden room extension, removal of modern brick chimney stack and replacement with a stainless steel flue affecting a Grade II Listed Building (revised scheme)
Location	Big House, Station Road, Whittington
Date of appeal	03.01.2023
Appeal method	Written Representations
Date site visit	
Date of appeal decision	
Costs awarded	
Appeal decision	

LPA reference	22/03346/FUL
Appeal against	Refusal
Committee or Del. Decision	Delegated
Appellant	Mr Oscar Dell
Proposal	Erection of two storey front extension
Location	1 Hampton Close, Oswestry
Date of appeal	27.01.2023
Appeal method	Fast Track
Date site visit	
Date of appeal decision	
Costs awarded	
Appeal decision	

LPA reference	22/03245/FUL
Appeal against	Refusal
Committee or Del. Decision	Delegated
Appellant	Mr David Wicks
Proposal	Erection of two storey side extension with glazed link to existing dwelling and alterations to dwelling for disabled family members
Location	Wheelwright Cottage Northwood Shrewsbury
Date of appeal	15.12.2022
Appeal method	Fast Track
Date site visit	
Date of appeal decision	
Costs awarded	
Appeal decision	

LPA reference	22/01201/FUL
Appeal against	Appeal Against Refusal
Committee or Del. Decision	Delegated Decision
Appellant	Mr J Kuschnir
Proposal	Erection of second storey to former cold store and two storey warehouse, installation of two rooflights to rear roofline, extension at first floor with formation of roof terrace
Location	Flat 46 Mardol Shrewsbury
Date of appeal	12.08.2022
Appeal method	Written Representations
Date site visit	
Date of appeal decision	
Costs awarded	
Appeal decision	

LPA reference	22/04125/FUL
Appeal against	Appeal Against Refusal
Committee or Del. Decision	Delegated Decision
Appellant	Mr O Humphreys
Proposal	Erection of extensions to form garage and utility room, porch and covered area
Location	37 Lansdowne Road Bayston Hill Shrewsbury
Date of appeal	12.01.2023
Appeal method	Householder
Date site visit	
Date of appeal decision	
Costs awarded	
Appeal decision	

LPA reference	22/03766/FUL
Appeal against	Appeal Against Refusal
Committee or Del. Decision	Delegated Decision
Appellant	Mr & Mrs James Neil
Proposal	Erection of part two storey/part single storey extension to rear and installation of 4 KWH photovoltaic array to front elevation roof
Location	38 Belle Vue Road Shrewsbury
Date of appeal	31.01.2023
Appeal method	Householder
Date site visit	
Date of appeal decision	
Costs awarded	
Appeal decision	

APPEALS DETERMINED

LPA reference	21/04356/FUL
Appeal against	Appeal Against Refusal
Committee or Del. Decision	Delegated Decision
Appellant	MAR DESIGN LIMITED
Proposal	Sub-division of ground floor retail to form 5 class 'E' units and creation of 14no residential apartments on first floor
Location	Monkmoor Trading Estate Monkmoor Road Shrewsbury
Date of appeal	01.07.2022
Appeal method	Written Representations
Date site visit	06.12.2022
Date of appeal decision	11.01.2023
Costs awarded	
Appeal decision	DISMISSED

LPA reference	22/00553/OUT
Appeal against	Refusal
Committee or Del. Decision	Delegated
Appellant	Mr and Mrs Lightfoot
Proposal	Outline application (access,layout,scale for consideration) for the extension to existing equipment store, and maintenance shed to create a live work unit
Location	The Old Railway Line, Pipe Gate, Market Drayton
Date of appeal	02.09.2022
Appeal method	Written Representations
Date site visit	21.11.2022
Date of appeal decision	16.01.2023
Costs awarded	
Appeal decision	DISMISSED

LPA reference	22/00491/FUL
Appeal against	Refusal
Committee or Del. Decision	Delegated
Appellant	Mr C. Bevan-Jones
Proposal	Change of use of former filling station to timber storage yard (B8 - Storage and Distribution)
Location	Site Of Former Filling Station, Sandford, Whitchurch
Date of appeal	01.07.2022
Appeal method	Written Representations
Date site visit	16.01.2023
Date of appeal decision	23.01.2023
Costs awarded	
Appeal decision	DISMISSED

LPA reference	22/01976/FUL
Appeal against	Refusal
Committee or Del. Decision	Delegated
Appellant	Mr and Mrs J Griffiths
Proposal	Erection of one replacement dwelling and detached double garage; installation of sewage treatment plant
Location	Darwin House, Dovaston, Kinnerley
Date of appeal	04.11.2022
Appeal method	Written Representations
Date site visit	
Date of appeal decision	31.01.2023
Costs awarded	
Appeal decision	DISMISSED

LPA reference	21/02541/LBC
Appeal against	Refusal
Committee or Del. Decision	Delegated
Appellant	Dr. D. Carter And Mrs. C. Carter
Proposal	Installation of 18No replacement windows affecting a grade II listed building
Location	Pentre Farm, Woodhill, Trefonen
Date of appeal	18.07.2022
Appeal method	Written Representations
Date site visit	
Date of appeal decision	13.01.2023
Costs awarded	
Appeal decision	DISMISSED

LPA reference	22/01947/FUL
Appeal against	Appeal Against Refusal
Committee or Del. Decision	Delegated Decision
Appellant	Mr Richard Walker
Proposal	Erection of 3No dwellings (resubmission)
Location	Proposed Development Land At Adcote School Little Ness Shrewsbury
Date of appeal	29.08.2022
Appeal method	Hearing
Date site visit	19.01.2023
Date of appeal decision	06.02.2023
Costs awarded	
Appeal decision	DISMISSED

LPA reference	22/02131/FUL
Appeal against	Appeal Against Refusal
Committee or Del. Decision	Delegated Decision
Appellant	Mr & Mrs I Hebborn
Proposal	Erection of a two storey rear extension
Location	131 The Mount Shrewsbury
Date of appeal	08.08.2022
Appeal method	Householder
Date site visit	16.01.2023
Date of appeal decision	16.02.2023
Costs awarded	
Appeal decision	ALLOWED

LPA reference	21/05972/FUL
Appeal against	Refusal
Committee or Del. Decision	Delegated
Appellant	Mr and Mrs Pritchard
Proposal	Construction of equestrian manege to include change of use of land, installation of post and rail fencing and all associated works (re-submission)
Location	Old Port Cottage Llwyn Road Oswestry SY10 7AA
Date of appeal	04.11.2022
Appeal method	Written Reps
Date site visit	9.1.23
Date of appeal decision	21.2.23
Costs awarded	
Appeal decision	DISMISSED

LPA reference	21/00014/DSA106
Appeal against	Refusal
Committee or Del. Decision	Delegated
Appellant	Mr B Power
Proposal	Discharge of S106 agreement attached to planning permission reference 13/02031/FUL
Location	English Court Croeswylan Lane Oswestry Shropshire SY10 9PT
Date of appeal	21.11.2022
Appeal method	Written Reps
Date site visit	9.1.23
Date of appeal decision	21.2.23
Costs awarded	
Appeal decision	DISMISSED

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Appeal Decision

Site visit made on 6 December 2022

by William Cooper BA (Hons) MA CMLI

an Inspector appointed by the Secretary of State

Decision date: 11 January 2023

Appeal Ref: APP/L3245/W/22/3302287

Former Hathaway Site, Monkmoor Road, Shrewsbury SY2 5TZ

- The appeal is made under section 78 of the Town and Country Planning Act 1990 as amended against a refusal to grant planning permission.
 - The appeal is made by MAR DESIGN LIMITED against the decision of Shropshire Council.
 - The application Ref: 21/04356/FUL, dated 7 September 2021, was refused by notice dated 13 January 2022.
 - The development proposed is sub-division of ground floor retail to form 5 class 'E' units and creation of 14no residential apartments on first floor.
-

Decision

1. The appeal is dismissed.

Preliminary Matters

2. Since the Council's decision, a section 106 planning agreement has been submitted. This covers provision of affordable housing and financial contributions in respect of open space. This informs my assessment of the appeal proposal.

Main Issues

3. The main issues in this case are:
 - Whether the proposal would preserve the Belfast-truss aircraft hangar non-designated heritage asset (NDHA);
 - The effect of the proposal on the supply of employment land and premises; and
 - Whether the proposal would provide a suitable mix and type of housing.

Reasons

Heritage asset

4. The appeal building is a former military aircraft hangar, located in an area of Shrewsbury that is characterised by a mix of mainly twentieth century commercial, housing and retail development. Much of the appeal building is in use as a carpet retail showroom.
5. The appeal building is included in the Shropshire Historic Environment Record, and as set out in the 2016 appeal decision¹ about the site, and identified by the

¹ Appeal Ref: APP/L3245/W/16/3159221.

Council, it is a NDHA. This is based on the building's special interest, which derives from the following. It is part of the former Monkmoor airfield that was used by the Royal Flying Corps in World War 1 for equipping and testing aircraft before their operational deployment, and used by the Royal Air Force for aircraft maintenance in World War 2. It has regional significance as part of a group of military aircraft hangar buildings dating from World War 1, and a relatively rare surviving example of this type of building in Shropshire.

6. The appeal building has a large, distinctive arched roof that is supported by a substantial early twentieth century internal Belfast roof truss system (BRTS). The BRTS inside the appeal building comprises an eye-catching framework of timber chords and lattice work. The substantial span, height above ground level and form of the BRTS draw the eye and contribute to the distinctive historic scale and identity of the former hangar building.
7. Also, the stepped brick buttresses on the appeal building's north-western elevation are a rhythmic architectural element that further draws the eye to its distinctive historic hangar architecture. Albeit some distraction from this sequence of buttresses results from existing business signage and lean-to additions along around two thirds of this elevation, which obscure the lower part of some of the buttresses.
8. Furthermore, the early twentieth century aviation-related roof structure, building profile and mass of the appeal building contrasts with the smaller scale architecture of one and two-storey residential development in the neighbourhood. This adds local heritage-related distinctiveness to the character of this part of Monkmoor.
9. Thus, while much of the former airfield space has evolved with subsequent development on it, and the appeal building has undergone changes including closing up of hangar doorways and fenestration changes, the appeal building noticeably survives as an illustration of distinctive hangar architecture, construction technology and the area's military aviation history, dating from World War 1. Its arched roof with BRTS, makes an important contribution to illustrating these historic aspects.
10. Given the above, the appeal building has evidential, historical and communal value. Its special interest, insofar as it relates to this appeal derives from the enduring legibility of its early twentieth century military aircraft hangar architecture, including its BRTS, and its contribution to illustrating the locality's military aviation history.
11. The proposed development would include the following. The stepped buttresses on the appeal building's north-western elevation would be retained² and, through removal of lean-to additions, commercial signage and masonry paint from the brickwork, better revealed. Also, removal of a canopy from the north-eastern elevation, and corrugated iron cladding from the north-eastern and south-western elevations of the building would lessen distraction from the NDHA's historic character.
12. Replacement of roof sheeting with zinc sheeting is proposed to address reported water damage³ to trusses, support purlins and sheet joint support

² As illustrated in Proposed Elevations drawing SA36072-BRY-XX-PL-A-002.

³ As indicated by the engineer's report on the condition of the existing structure (RCES) of the appeal building, that was submitted by the appellant with the appeal.

- strips, arising from rusting of corrugated roof sheeting. While the zinc sheeting would be a modern replacement of some of the building's fabric, the existing roof sheeting fabric is of uncertain age and authenticity. Also, the distinctive arched roof shape would endure. As such, the replacement zinc roof sheeting would appear as an architecturally 'honest' element that would not harmfully detract from the historic character of the appeal building. Also, the proposed steel framed windows to ground floor retail units would be suitably unfussy in their style, and characteristic of some earlier larger scale twentieth century buildings, to avoid distracting from the historic character of the building.
13. However, with the insertion of the first floor apartments level, much of the arched roof form and timber BRTS would be concealed from view within the appeal building, above apartments' suspended ceilings. This would obscure the cavernous character of the hangar inside the building, and diminish appreciation of the grand scale and appearance of its roof space with its intricate BRTS.
 14. Furthermore, an opening in the roof is proposed above a new first floor external courtyard and gardens space. This would expose parts of several trusses as a feature above this courtyard and gardens space⁴. Treatment of trusses with wood preservative is proposed above the courtyard and gardens space⁵. Also, taped and sealed WBP plywood would be fixed to lattice sections of truss at external wall junctions of the courtyard. However, the exposure of trusses above the courtyard in the north-west facing opening of more than 200sq.m in the curved roof, at a height of around 12m would expose the BRTS to increased potential for moisture penetration from rain and other types of weather. Also, the location of exposed parts of trusses above a mix of communal courtyard and private gardens space at first floor level may limit maintenance access, to inspect and renew timber preservative, plywood, sealant and tape.
 15. Given the above combination of factors, I have no certainty that the proposal would practicably protect the fabric of the BRTS from decay, to safeguard its survival in the medium to long term. No substantive case study to, for example decisively demonstrate a track record of such measures providing a realistically durable solution for retention of comparable historic interior roof timbers exposed to outside weather elements, is presented to persuade me otherwise. As such, the proposal would place the appeal building's BRTS and historic roof profile at unacceptable risk of future deterioration. Thus, the proposal would harm the distinctive historic fabric, construction technology and building profile of the NDHA.
 16. Therefore, the proposal would fail to preserve the special interest of the NDHA. Given the scale and substance of the proposal, and the localised nature of its impact on the NDHA, I find the harm to the NDHA to be less than substantial in this instance, but nonetheless significant. In such circumstances I necessarily weigh the harm against the benefits of the proposal.
 17. The proposal would contribute three one-bedroom flats and 11 two-bedroom flats on brownfield land to local housing supply. The three one-bedroom flats would be affordable, shared-ownership dwellings. This would add to the variety

⁴ As illustrated in the Proposed Roof Plan.

⁵ As described and illustrated in sections 6.4.2-6.4.3 of the appellant's Design and Access Statement Rev A.

of housing in the neighbourhood. The proposal would also provide five new commercial, business and service class units, with associated fresh employment opportunities, albeit tempered by the loss of the existing carpet showroom and associated employment. Furthermore, the proposal would contribute to public open space provision in the area. The above would provide socio-economic benefit during and after construction, within the county's Shrewsbury growth point.

18. Also, the proposal would better reveal the distinctive stepped buttresses on the heritage asset's north-western facade, and distract less from the historic character of its north-eastern and south-western elevations, from some exterior viewpoints. Proposed new roof sheeting would reduce water ingress to the BRTS, compared to existing deteriorated sheeting. The proposal would bring fresh architectural dynamism and investment to the building.
19. That said, the RCES indicates the following. More intrusive building survey investigations are required to ensure that the structure performs adequately long term. Fuller inspection of the appeal building's roof trusses is necessary, including to inform assessment of the suggestion that steel truss replacement 'may prove to be the most economic and robust option'⁶. Also, fuller inspection of the central gutter is needed, considering that reported water leakage and overflowing could affect truss end blocks.
20. Furthermore, a fuller building structure survey and assessment including, for example a) drawings and photographs of the extent and location of reported existing defects, and b) substantive demonstration of the structural capability of the appeal building to accommodate the proposed development while preserving its historic elements, is not presented. Nor is a substantive comparison of estimated costs of anticipated future maintenance works and income from the current retail unit, informed by audited accounts, for example, before me. As such, it is not decisively shown that the appeal proposal would be the minimum necessary intervention to secure the fabric and special interest of the NDHA in the future.
21. Given the above, the benefits are limited by the scale of proposed development and do not outweigh the identified harm to the significance of the heritage asset. I therefore conclude that the proposal would fail to preserve the NDHA. As such, it would conflict with Policy CS6 of the Shropshire Core Strategy (CS), and Policies MD2 and MD13 of the Shropshire Site Allocations and Management of Development Plan (SAMDev). Together, these seek to ensure that development conserves and enhances Shropshire's heritage assets.

Employment land and premises

22. As established in the 2017 appeal decision⁷, the current appeal site is part of a protected mixed commercial employment site of moderate significance, that falls to be protected as an employment area for Class B and other sui generis uses, under Policy MD9 of the SAMDev. Criterion 5 of Policy MD9 requires that where proposals for alternative uses would lead to loss of protected employment area, evidence of appropriate marketing over a sustained period will be required, to demonstrate that the land or premises are no longer commercially viable for the appropriate uses.

⁶ As per point 4 of the Conclusions and Recommendations of the RCES.

⁷ Appeal Ref: APP/L3245/W/16/3159221.

23. Within this context, the proposal would replace the carpet showroom with five commercial, business and service class units of fresher appearance, that are likely to be more easily maintainable with associated potential attractiveness to future business occupants and customers. However, that said, the appeal proposal would result in the loss of around 600sq.m⁸ of protected employment land in the south-eastern part of the appeal building, for a residents' car parking area. No marketing over a sustained period of the land proposed for the residents' parking area is presented. As such, there is not substantive evidence before me of this protected employment land having been marketed for sale for a sufficient length of time and at a sufficiently realistic price to decisively support a finding of lack of future viability as employment land.
24. As such, the proposal would reduce the amount of protected employment land on the site and so diminish the supply of that land in the area, without the viability justification required by SAMDev Policy MD9. Also, no substantive assessment to, for example decisively demonstrate that the proposal would support delivery of the rolling five year strategic land supply of readily available committed employment sites and premises in the county is presented. As such, the proposal would not demonstrably support the management of a portfolio of employment land and premises sought by Policy CS14 of the CS.
25. Following the Council's decision on the current appeal proposal, a subsequent scheme for sub-division of the existing retail unit to form 5 class 'E' units, without the residential development, has been granted planning permission⁹. As this later scheme does not encompass changing the space within the south-eastern part of the appeal building to a residents' parking area, its approval does not establish the acceptability of the loss of employment land in the current appeal case. Also, another decision¹⁰ cited by the appellant differs from the appeal proposal in that it concerns another building. This other decision does not negate Policy MD9's marketing requirement, nor provide compelling evidence of lack of employment viability of the land proposed for the residents' parking area in the current appeal case. Thus, these other decisions do not alter my findings on this main issue.
26. In conclusion, the proposal would harm the supply of employment land and premises. As such, it would conflict with Policy MD9 of the SAMDev and Policy CS14 of the CS, as set out above.

Housing mix and type

27. Policy CS11 of the CS seeks to ensure that, among other things, housing development helps balance the type of local housing stock, provides appropriate affordable housing and is designed for adaptation to accommodate lifestyle changes and to achieve the Lifetime Homes standard. Also, Section 1i) of DP Policy MD3 requires that residential proposals on sites of five or more dwellings include a mix and type of housing that has regard to local evidence and community consultation. Together, this articulates the importance of providing a balanced housing mix that is demonstrably responsive to the diverse housing needs of Shropshire residents now and in the future. Supporting text under Policy MD3 identifies Shropshire Place Plans as a source

⁸ Measured from the Proposed Ground Floor Plan, excluding the proposed servicing access to the rear of the commercial units.

⁹ Application Ref: 22/02952/FUL.

¹⁰ Application Ref: 22/01175/DEM.

- of information on housing types required locally, and specifies Shropshire Strategic Housing Market Assessment (SHMA) among key evidence.
28. In the absence of substantive evidence in the Shrewsbury and Surrounding Area Place Plan of housing mix and type need in Monkmoor and other urban parts of Shrewsbury town, the proposal focuses on affordable housing provision. The Council considers that the proposed development would include a sufficient amount of affordable dwellings with three shared-ownership one-bedroom flats, which I accept.
29. However, no substantive assessment of local housing mix or type need in urban Shrewsbury, drawing on the Shropshire SHMA, is presented. Nor is there clear confirmation that the proposed accommodation is designed for adaptation to accommodate lifestyle changes and to achieve the Lifetime Homes standard. As such, the proposal would not demonstrably provide a mix and type of housing that sufficiently comprehensively responds to local needs.
30. Therefore, in conclusion the proposal would not demonstrably provide a suitable mix and type of housing, and would undermine this objective. As such, it would not accord with Policy CS11 of the CS and Policy MD3 of the SAMDev which together seek to ensure that housing development delivers the right mix and type of dwellings to meet community needs.

Other Matters

31. Concerns have been expressed by some members of the local community about highway safety and parking stress, which go beyond the reasons for refusal. As I am dismissing this appeal on other grounds, it is not necessary for me to address these matters further in this instance.

Planning Balance and Conclusion

32. The appellant refers to potential alternative loss of existing Class E floorspace to residential (Class C3) use, through permitted development rights under Class MA of The Town and Country Planning (General Permitted Development etc.) (England) (Amendment) Order 2021. Judging by the appellant's raising of this, and the Council's assessment of the noise and daylight aspects of the residential part of the appeal proposal as resolvable¹¹, this fallback position is more than a theoretical possibility. The total loss of existing Class E floorspace from the appeal building would be more harmful than the identified partial loss under the appeal proposal. As such, this fallback position carries moderate weight in favour of part of the proposal.
33. That said, the benefits of the proposal as identified under the first main issue, and the fallback position are insufficient to outweigh the significant totality of harm that I have identified in relation to the three main issues.
34. Therefore, the proposed development would be contrary to the development plan and there are no other considerations which outweigh this finding. Accordingly, for the reasons given, the appeal fails.

William Cooper

INSPECTOR

¹¹ As indicated in paragraphs 6.2.3 and 6.3.9 of the Development Management Report.



Appeal Decision

Site visit made on 21 November 2022

by M Ollerenshaw BSc (Hons) MTPI MRTPI

an Inspector appointed by the Secretary of State

Decision date: 16 January 2023

Appeal Ref: APP/L3245/W/22/3299951

The Old Railway Line, Pipe Gate, Market Drayton TF9 4RT

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant outline planning permission.
 - The appeal is made by Mr and Mrs Lightfoot against the decision of Shropshire Council.
 - The application Ref 22/00553/OUT, dated 3 February 2022, was refused by notice dated 14 April 2022.
 - The development proposed is described on the application form as 'proposed extension to existing equipment store, and maintenance shed to create a live work unit'.
-

Decision

1. The appeal is dismissed.

Preliminary Matters

2. The application was in outline with appearance and landscaping reserved. As such, I have regarded all elements of the drawings submitted as indicative apart from details of access, layout and scale.

Main Issues

3. The main issues are:
 - whether the proposal would constitute an acceptable form of development in this location, having regard to the provisions of local and national policy relating to the location of development;
 - the effect of the proposed development on the character and appearance of the area; and
 - the effect of the proposed development on highway safety.

Reasons

Location

4. The appeal site is a parcel of land to the west of Pipe Gate and east of Watery Lane. Formerly part of a railway line the site is now largely grassed over save for an equipment store/maintenance shed and areas of hardstanding. There are fields to the north, south and west and a modern housing estate known as Priors Gardens a short distance to the east. The site is outside of the identified settlement boundary for Pipe Gate and is therefore within the countryside.
5. Policy CS5 of the 2011 Shropshire Core Strategy (the Core Strategy) indicates that new development in the countryside will be strictly controlled in accordance with national planning policies. Policy CS1 of the Core Strategy sets

- out the Council's overall strategic approach to development and investment, indicating that in the rural areas it will be located predominantly in community hubs and community clusters, and not permitted outside these settlements unless it relates to economic diversification and to meet the needs of the local communities for affordable housing.
6. Policy HOU1 of the Woore Neighbourhood Plan 2016-2036 (the Neighbourhood Plan) sets out that land outside the settlements is designated as open countryside, where new development will be strictly controlled in line with the development plan and national policies.
 7. Core Strategy Policy CS13 encourages home-based enterprise, including the development of live-work schemes, although it also reflects the need for proposals for development in rural areas to comply with the requirements of Policy CS5. Policy CS5 provides some support for development on 'appropriate sites, which maintain and enhance countryside vitality and character', including small scale new economic development diversifying the rural economy, and dwellings to house agricultural, forestry or other essential countryside workers. The policy requires the need for, and benefits of, such development to be demonstrated, and expects it to take place primarily in recognisable named settlements or be linked to other existing development and business activity. Policy ECON1 of the Neighbourhood Plan is supportive of proposals which support the rural economy and that promote or provide facilities for businesses operating from home, subject to respecting the built and landscape character.
 8. Policy MD7a of the 2015 Shropshire Site Allocations and Management of Development Plan (the SAMDev Plan) permits dwellings to house essential rural workers where certain criteria including financial and functional tests are met and there are no other existing suitable and available affordable dwellings or other building which could meet the need.
 9. The proposal is for a live work unit to support the appellants' physiotherapy and chiropractic clinic which they currently run from their existing property on Pipe Gate. The proposal is not an essential countryside workers dwelling and there is no substantive evidence before me to show a functional need for a permanent new dwelling on the site. As noted, Core Strategy Policy CS5 provides some support for small scale new economic development diversifying the rural economy. Whilst the live work unit would support the appellants' existing business, that business is currently located elsewhere and the proposal would not diversity the rural economy or be located on allocated employment land.
 10. The appellants contend that the existing established business needs to relocate from Pipe Gate due to increased traffic arising from development of the HS2 rail line, which will make crossing the A51 to their current premises dangerous for business clients. However, the A51 is a busy main highway which the appellants' clients already cross to reach the existing practice. There is no substantive evidence before me to demonstrate that increased traffic along the A51 from construction traffic associated with HS2 will dissuade clients from visiting the practice to the extent that the business would become unviable, and increased traffic from HS2 would be for a temporary period during the construction phase. Both parties also refer to a proposed crossing which would be relatively close to the appellants' existing premises which would introduce a safer means of crossing the road for clients. The appellants contend that there

are no other suitable properties in the area within their budget that would be capable of providing the required living space and consulting rooms. However, I have not been provided with any substantive details of the appellants' property searches in the local area. Moreover, there is no substantive evidence before me to demonstrate why the business requires a countryside location or a combined live work unit to ensure its continued viability. Therefore, on the basis of the evidence before me I am not persuaded that there is a demonstrable need for a new live work unit in this countryside location.

11. The appellants acknowledge that the site is outside the settlement boundary but have referred to the boundary as being questionable on the basis of the planning history of the area. However, it is not the purpose of this s78 appeal to reassess the settlement boundary for the area. It is also claimed that the site falls within land that was intended to be developed for housing as part of phase 2. However, planning permission for residential development on the site has not been granted and the fact remains that the site falls within the open countryside.
12. The appellants have referred to a recently approved development to the north of the appeal site. However, the substantive details and the planning history of that development have not been provided and so I cannot be sure it represents a direct parallel to the appeal proposal. In any event, I have considered the appeal on its own merits based on the specific circumstances of the site.
13. I accept that the provision of a live work unit would provide some support for the vitality of the rural community, but this would be limited due to the scale of the development and its location outside an identified settlement with site access constraints.
14. For the reasons given above, I conclude that there is insufficient justification for a live work unit on the site. Accordingly, the appeal proposal would not be an acceptable form of development within this countryside location, having regard to local and national policy. Consequently, it would conflict with Policies CS1, CS5, CS10 and CS13 of the Core Strategy, Policies MD1 and MD7a of the SAMDev Plan, and Policy HOU1 of the Neighbourhood Plan, which seek to restrict development outside settlements. The proposal would also be at odds with the aims and objectives of the Framework in respect of development in the countryside.

Character and appearance

15. The main body of the site is bound by embankments to the north and south and is therefore set at a lower level than the adjoining open fields. There is an established hedgerow along the northern boundary and trees along the southern boundary of the site. Despite being part of a former railway cutting and rubber works, the site is now largely grassed over and is set within a landscape of farmland, accordingly exuding a rural character which contributes positively to the area.
16. Despite the utilitarian appearance of the existing building on the site, in terms of its scale, design and materials, it is not dissimilar to other agricultural buildings typically found in the wider countryside. For this reason, the existing building does not unduly detract from its rural setting.

17. The application is made in outline with details of layout and scale subject to consideration as part of this proposal, which would involve the extension of the existing building to provide living accommodation and work space. The submitted plans indicate large extensions to both sides of the building which would substantially increase the footprint and volume of the building and emphasize its isolated presence within the surrounding countryside.
18. The building would be likely to require the insertion of several windows and doors to provide adequate internal living and working spaces. Such openings would be likely to domesticate the simple, agricultural appearance of the existing building. The resulting building would appear unduly domesticated and as an incongruous feature within the rural landscape.
19. In addition, the creation of a garden area and domestic paraphernalia associated with residential occupation, together with alterations to the access road and new formal parking area with parked vehicles, would have an additional urbanising effect on the rural character of the site and the surrounding landscape.
20. Existing trees and established hedgerows on the northern and southern boundaries of the site would provide some screening of the proposal from outside the site. However, the proposal would still be partially visible within the surrounding landscape, as confirmed by the appellants' visual assessment. Given the scale and height of the building, it would be clearly visible from various vantage points, including from the bridge on Watery Lane to south west, the public right of way to the north east, from the B5026 to the north west, and it would appear unduly prominent from within the site itself. Due to its siting and scale, the proposal would represent an inappropriate form of development that would significantly diminish the landscape value of the area and be harmful to the character of this part of the countryside.
21. The plans indicate reinforced boundary planting to the eastern part of the site which would provide additional screening of the proposal from the public right of way to the east. However, new planting would take some time to mature and given the scale of the proposed development, would not sufficiently mitigate the harm to the rural landscape.
22. For the above reasons, I consider that the proposal would result in significant harm to the character and appearance of the area. It would therefore be contrary to Policies CS5, CS6 and CS17 of the Core Strategy, Policies MD2 and MD7b of the SAMDev Plan and Policies HOU3 and ECON1 of the Neighbourhood Plan which, amongst other things, seek to protect the countryside and ensure that development responds appropriately to local character and the form, layout, design and details of existing development. The proposal would also conflict with the Framework where it seeks to ensure that proposals contribute to and enhance the natural and local environment.

Highway safety

23. The proposed development would be accessed via Watery Lane using the existing gated access point to the south. The lane appears to be lightly trafficked and vehicle speeds are likely to be low due to its narrow and winding nature with no formal passing places.

24. The submitted details indicate that the practice would have a maximum of 12 visitors per day, from 0900 hours to 1800 hours Monday to Friday. Although it is possible that some visitors would walk, cycle or use public transport to get to the site, given the rural character of the site, I consider that the majority of visitors would arrive by private car.
25. The likely number of vehicle movements to and from the site from future occupiers and customers would result in an increased likelihood of vehicles meeting one another on Watery Lane which would result in vehicles having to make potentially long reversing manoeuvres along a lane with limited visibility in places, no passing opportunities and substandard junctions with the main roads to the north and south. I acknowledge that vehicle speeds along the lane are likely to be low and note the appellants' statement that their customers are generally from the local area and use such lanes daily. However, increased use of Watery Lane in the manner proposed would be potentially hazardous and would lead to conflict and inconvenience to highway users.
26. A revised option of accessing the site via the existing gated access from Phoenix Rise has been suggested. However, that access point is not within the appeal site and I have assessed the proposal on the basis of the scheme submitted to and determined by the Council.
27. For the above reasons, I consider that the proposal would have an unacceptable impact on highway safety. Therefore, it would be contrary to Policy CS6 of the Core Strategy which requires development to be safe and accessible to all, and Policy MD2 of the SAMDev Plan which requires development to have appropriate infrastructure. In addition, I find that there would be a conflict with Framework where it requires the provision of safe and suitable access to the site for all users and seeks to prevent development that would have an unacceptable impact on highway safety.

Other Matters

28. I note the appellants' concerns with the way in which the Council dealt with the planning application. This is however a procedural matter for the Council to address and does not impact on my assessment of the merits of the case.
29. The proposal would have social and economic benefits through the provision of a new live work unit, which would contribute towards the Council's housing supply and support the existing business. Employment opportunities would be created during the construction phase of the development, and future occupants of the dwelling would contribute to the local economy. I have attached some weight to these factors. The proposal would also incorporate sustainable design techniques, use a fabric first approach and ground and air source heat pumps. It is also suggested that enhanced landscaping of the site as a result of the proposal would provide greater wildlife activity than at present. Given the modest scale of the development, the weight attributable to these matters is limited. The appellants state that the proposal could become an affordable home, but there is no mechanism before me that would secure it as such. The proposal would provide a primary care facility which would operate as part of the local health care provision. However, that facility is already provided from the existing premises a short distance away from the site and, on the basis of the evidence before me, I am not persuaded that the business requires a countryside location. The benefits of the scheme are not

sufficient to outweigh the harm that I have identified and the conflict with the policies I have referred to.

30. Based on the previous uses of the site, the appellants claim that it constitutes previously developed land, which is disputed by the Council. The Framework encourages the use of previously developed land where opportunities exist. Previously developed land is defined in Annex 2 of the Framework. Even were I to reach the view that the site did constitute previously developed land as defined within the Framework, the harm I have found would not be outweighed by any benefits associated with the use of previously developed land.

Conclusion

31. The proposed development does not accord with the development plan read as a whole, and there are no other considerations, including the Framework, that indicate that I should take a different decision other than in accordance with this. For the reasons given above and having had regard to all other matters raised, I conclude that the appeal should be dismissed.

M Ollerenshaw

INSPECTOR



Appeal Decision

Site visit made on 16 January 2023

by Ben Plenty BSc (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 23rd January 2023

Appeal Ref: APP/L3245/W/22/3302301

Land lying to the south-east of Gerayne, Higher Heath, Whitchurch, Shropshire SY13 2HE

- 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 Border Hardwood Limited against the decision of Shropshire Council.
 - The application Ref 22/00491/FUL, dated 1 February 2022, was refused by notice dated 3 May 2022.
 - The development proposed is the change of use of former filling station to timber storage yard (B8 - Storage and Distribution).
-

Decision

1. The appeal is dismissed.

Preliminary Matters

2. A certificate of lawfulness was issued for three discrete parts of the site to be used for open storage in 2001. The certificate confirmed that the material storage was confined to specific heights, with a maximum being 1.5 metres. A subsequent certificate for the storage of pallets of up to 6 metres was refused and subject to appeal. The Council reports that the Inspector, of this appeal, concluded that the use of the site for storage had not been demonstrated. It was also found, by the Inspector, that the previous certificate may have been incorrectly issued.
3. The Council considers that the previous use of the site, for a petrol filling station, has been abandoned with the site now having a nil planning use. Although having limited evidence on this matter, it seems that the petrol filling station use may have been abandoned by the issuing of a certificate for storage use on parts of the site. Nevertheless, it also seems that the storage use of 2001 may also have since been abandoned. It is unlikely that the storage use remains established, following the reported lack of activity on site in the intervening 20 years. As a result, I shall take the planning history of the site into account in my decision as matters of only limited weight.

Main Issues

4. The main issues are:
 - the suitability of the site's location for commercial development with regard to local and national policies, and
 - the effect of the proposed development on ecological interests of the site.

Reasons

Locational suitability of the site

5. The development plan for the district includes the 2011 Shropshire Core Strategy (CS). CS Policy CS6, in regard to sustainable design and development, requires development that is likely to generate significant levels of traffic to be located in accessible locations where users have access to a range of sustainable travel choices. CS Policy CS13 seeks development that, among other matters, promotes Shrewsbury as the main business, service and visitor centre in the sub-region. It seeks to plan and manage a responsive and flexible supply of employment land and premises comprising a range and choice of sites in appropriate locations to meet the needs of business.
6. The 2015 Site Allocations and Management of Development Plan (DP) establishes the Council's Spatial Strategy. This seeks to concentrate development in Shrewsbury, the Market Towns and Key Settlements forming a hierarchical approach for locating development. DP Policy MD4, with respect to employment development, states that employment development will be managed in accordance with the Council's spatial strategies. The first limb of this policy requires such sites to be sustainable. It favours the use of committed or allocated sites or 'other suitable development sites' that include industrial or commercial employment opportunities, be compatible with adjoining uses and satisfy the Council's settlement policy.
7. The National Planning Policy Framework (the Framework) promotes a sustainable pattern of development that meets the development needs of an area and requires development to make efficient use of land in urban areas. It also seeks to support the rural economy whilst recognising the intrinsic character and beauty of the countryside.
8. The appeal site is a triangular parcel of land adjacent to the A41. It is located outside of a settlement and would be reliant on private transport to gain access. It appears that the site would primarily function as a distribution and storage facility. It would therefore be mostly attended by transport vehicles and no members of the public would attend. The site would operate as a satellite facility to the main business in Web. It would be an isolated storage use that would not benefit from the proximity of similar storage and industrial uses. Despite being close to several scattered commercial businesses, the site is not well connected to existing built form or activity. Therefore, it would represent discordant development in the open countryside that would not satisfy the Council's spatial strategy.
9. Although other commercial development is noted along the A41, these are established businesses and may have been subject to a different planning policy context. Their presence does not provide a clear reason to approve a new commercial activity within this countryside location.
10. CS policy CS5, concerned with the countryside and Green Belt, promotes small scale new economic development, subject to several caveats, including that it would deliver local economic and community benefits. However, the proposal would only be in use when timber is delivered or collected from the site in coordination with the main site. In this way the proposed use would operate in

isolation of its surroundings and would be unlikely to deliver tangible benefits to the local economy or community.

11. The site is to the south of Whitchurch. It is not within a Market Town or Key Centre and is within the countryside for policy purposes. Consequently, the site would not meet the Council's settlement hierarchy policy and the proposal would not be within a suitable location due to its countryside location.
12. Accordingly, the proposal would conflict with CS policies CS6 and CS13, DP policies MD2 and MD4 and the Framework for the above reasons.

Ecological interests

13. The Council's second RfR was concerned with the absence of the submission of an ecological assessment. A preliminary Ecological Appraisal was submitted in support of the appeal. This found that the site was of low ecological value. It advises that the harm of development could be mitigated by measures to protect bats against the disruptive external lighting, and hedgehog and breeding bird measures set out in its appendices 2, 3 and 4 respectively.
14. The Council has not responded to this evidence which is therefore undisputed. I am satisfied that the survey has been undertaken by a suitably qualified professional. Furthermore, the mitigation measures are reasonable and describe suitable mechanisms to prevent an adverse effect on local wildlife. The mitigation measures could have been secured by appropriate planning conditions had I been minded to allow the appeal.
15. Accordingly, the proposal would accord with CS policy CS17 and DP policy MD12 and the Framework. These seek, inter alia, for development to protect and enhance the district's natural environment and avoid harm to seek the conservation of its natural assets.

Other Matters

Previously developed land

16. The Framework encourages the reuse of brownfield land within settlements for homes and other identified needs and that they be physically well related to existing settlements.
17. The site was formerly used as a petrol filling station. During my visit I observed that the majority of development associated with that use had been removed. Only the hard standing and some kerb edging remain. This demonstrates the size of the forecourt and the previous location of the building and pumps. The Council has calculated that around 23% of the site was covered by buildings and hardstanding. This measurement is unrefuted by the Appellant, although I recognise that the Appellant considers that the whole site should be deemed as previously developed.
18. The Framework defines Previously Developed Land (PDL) as "land which was occupied by a permanent structure, including the curtilage of the developed land (although it should not be assumed that the whole of the curtilage should be developed)".
19. The site, although largely cleared, retains clear evidence of the previous use of the site. Although low lying, these features have not fully blended into the landscape and demonstrate parts of the former use of the site. Whilst the

location of underground tanks is not clearly defined, these would not materially increase the extent of land that would be considered to be previously developed. As such, most of the undeveloped parts of the site are found to its rear in one unified area and consists of the majority of the site. Furthermore, whilst the undeveloped land is partially fragmented around the front edges of the site, this does not alter my view that the area deemed to be PDL is tightly drawn around those areas of hardstanding evident on site.

20. Due to the evidence observed on site I am content that the central areas of the site would be PDL. However, the majority of the site has not been subject to previous development. Also, the parts of the site that were developed are now largely cleared retaining only hardstanding, resulting in a limited visual impact of those parts retained.
21. The proposed development would consist of hardstanding and boundary fencing that would cover a substantially greater area of the site and would expand into areas that have not been previously developed. As a result, whilst the proposed scheme would include some areas of PDL, the proposed development would largely extend into areas of the site previously undeveloped. As such, most of the proposal would not occur on PDL.
22. Furthermore, even if the entire site were found to be PDL, the site would not relate well to an existing settlement and would fail to satisfy the locational requirements of the Framework for the reuse of such land.

The needs of the Appellant

23. The Appellant explains that the proposed use is required for a timber storage business which is currently based in Wem and specialises in European Oak. The business is grounded on having stock immediately ready for distribution across the UK. Recent changes in markets have required the business to alter how it operates and increase its capability to store more stock. It has already expanded into two adjacent industrial premises on the Wem Industrial Estate but has now also outgrown these premises. It is also recognised that locating on several separate sites would benefit the business from an insurance standpoint.
24. The appeal site would offer the required additional storage land required, being within a short drive of the main site. However, the Appellants have provided insufficient evidence to demonstrate that a robust site search criteria has been undertaken to result in the appeal site being preferred. Furthermore, these benefits would be gained through the use of any suitable site within the search area.
25. The proposed expansion of the business is predicted to increase employee numbers from 23 to 30, by the end of 2030, if further storage space is found. Also, Prees Parish Council has lodged its support for the proposal.

Visual effects

26. The front boundaries of the site, onto both the A41 and the B5065, are mostly open with limited boundary hedging or tree cover. As such, the site is exposed to views from the public realm. Due to the absence of built form on site the limited remaining evidence of development retained is discrete and visually non-invasive. It therefore does not materially detract from the character and appearance of the area. Accordingly, the site currently has an uncluttered and

open aspect that contributes positively to the character of the surrounding countryside landscape.

27. In contrast the proposed development would enclose the site and erode its open character. The proposed boundary landscape screening, and limitation on the height of stored materials, would reduce this visual effect. Nevertheless, , the proposed landscaping would not materially enhance the appearance of the site resulting in a visual benefit to the site and its surroundings. Consequently, these measures would not address the visual impact of the proposed development.

Planning balance and conclusion

28. The Framework seeks to support a prosperous rural economy. It requires planning decisions to enable the sustainable growth and expansion of all types of business in rural areas. The operational needs of the Appellant's business, and its anticipated increase in employees, are issues of modest weight in favour of the proposal. The additional planting, and defined mitigation measures, would deliver some ecological benefits to local wildlife. Furthermore, the site being located on the strategic road network would assist with the accessibility of the site for the business. These merits would be of some, albeit modest, benefit in favour of the proposal.
29. Nonetheless, based on the evidence before me, the site does not represent the expansion of an established storage use and would only relate to a site that has been partially previously developed. The proposed use would conflict with the Council's spatial strategy and would include development that would be intrusive in its countryside setting within an exposed location.
30. Consequently, the proposal would conflict with the development plan when taken as a whole, and there are no material considerations that would outweigh this conflict. For these reasons, the appeal is dismissed.

Ben Plenty

INSPECTOR

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Appeal Decision

Site visit made on 4 January 2023

by J D Clark BA (Hons) DpTRP MCD DMS MRTPI

an Inspector appointed by the Secretary of State

Decision date: 31 January 2023

Appeal Ref: APP/L3245/W/22/3305076

Darwin House (Formerly the Hollies – Demolished), Dovaston, Kinnerley, Oswestry, SY10 8DS

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
 - The appeal is made by Mr and Mrs J Griffiths against the decision of Shropshire Council.
 - The application Ref 22/01976/FUL, dated 22 April 2022, was refused by notice dated 27 June 2022.
 - The development proposed is erection of 1no replacement dwelling with associated detached double garage.
-

Decision

1. The appeal is dismissed.

Main Issue

2. The main issue is the effect of the proposed dwelling and garage on the character and appearance of the area.

Reasons

Background

3. The Hollies, a detached dwelling previously occupied the appeal site but this has been demolished. I have not seen any details of the dwelling but I am informed that it was a small vernacular stone and brick cottage. There is a planning history of refusal for its replacement but a planning application was first approved in 2006 and then again later in 2017¹. I understand that the permission is extant as work has commenced. I observed dug trenches on the site. Also, boundary hedging alongside the road has been planted.
4. Access to the site is via land outside the application site but immediately adjoining it. Other than providing an access to the appeal site, it also provides access to a large caravan although from the evidence submitted with this appeal, it seems it was intended to access the agricultural land beyond it. There is no subdivision between the access and the application site and from the details given on the application form and location plan both areas of land are in the same ownership.

Character and Appearance

5. The character of the area is semi-rural with the road running through the village of Dovaston which comprises of mainly a mix of dwellings interspersed

¹ Planning Applications Refs : - 06/14437/FUL & 12/03866/FUL.

with open land. The appeal site is located on the southern side of the road with open land to the rear and opposite, on the other side of the road. On the western side of the access, there is a former chapel, which now seems to be a residential property, and predates another later chapel, now a United Reformed Church which bears a date stone 1879. Between the two chapels is a graveyard and both buildings are identified by the Council as non-designated heritage assets. The historical significance of these buildings is based on their age and their role in the local community as places of worship. The graveyard includes both old and newer gravestones and contributes to the significance of the non-designated heritage assets by virtue of its location, function and relationship to the two chapels.

6. The proposed house and garage would have a contemporary design being flat roofed and box like and finished with a range of materials including timber and copper. The appearance of the proposed house would differ significantly from the more traditional styles of dwellings found elsewhere in the village. In particular, the proximity of the vernacular appearances of the older chapel on the other side of the access, the graveyard and the United Reformed Church would exacerbate the harmful alien characteristics of the proposed dwelling and garage. The new house and garage would pay little regard to the significance of the non-designated heritage assets.
7. Furthermore, the proportion of buildings to amenity space within the application site would be such that the house and garage would appear cramped and disproportionately large for its plot. Also, despite proposed and existing planting, the closeness of the scheme towards the application site boundaries means that it would be visually prominent from the road, the graveyard, the fields and the public footpath to the west of the access. It would be a stark and jarring addition to the local scene.
8. Although the proposal would satisfy policies CS6 and CS17 of the Core Strategy² in terms of its construction materials and eco credentials, for the reasons set out above, it would conflict with these policies in terms of its failure to reflect its local context and character. It would further conflict with of SAMDev³ Policy MD13 and MD2 which seeks to avoid harm to the significance of non-designated heritage assets, including their setting and requires development to contribute and respect existing development and reflect local characteristics.
9. The National Planning Policy Framework⁴ supports well designed development and states that significant weight should be given to outstanding or innovative design which promote high levels of sustainability. However, the Framework also confirms that this should be the case so long as the development fits in with the overall form and layout of their surroundings. For the reasons stated, the proposed dwelling and garage would not fit in with their surroundings and so would not comply with the design objectives of the Framework.
10. The proposal would provide a lifetime home for the appellants and I note the scheme's eco credentials. Nevertheless, these benefits would not outweigh the

² Shropshire Council – Shropshire Local Development Framework : Adopted Core Strategy, March 2011.

³ Shropshire Council Site Allocations and Management of Development (SAMDev) Plan – Adopted Plan 17 December 2015.

⁴ Ministry of Housing, Community and Local Government National Planning Policy Framework, 2021 (the Framework).

harm to the significance of the non-designated heritage asset and on the character and appearance of the area.

Other Matters

11. It appears it would be possible to still build the approved dwelling which might then be extended under Permitted Development (PD) rights. However, the appellants wish to build an alternative property and I have only very limited sketch details showing how the approved house might be extended under PD. The fallback position of an extended approved houses seems unlikely to me and so I give it little weight.
12. I also note that the appellants consider the approved house to be outdated in terms of its size and have raised matters about the size of modern housing and its suitability for family occupation. However, dwellings are required to meet a variety of needs and the reasons given for a larger house here does not alter my conclusion.
13. I note the numerous examples of other houses, citing their locations, bedroom numbers and plot ratios. I have also considered the proposal in the context of the Council's policy for managing housing in the countryside under SAMDev Policy MD7a and the Council SPD⁵ regarding affordable housing. However, none of these matters raise issues that alter my conclusion.
14. I have reviewed the representations made in support of the scheme. However, none of the matters raised persuade me away from my earlier findings.

Conclusion

15. For the reasons given above I conclude that the appeal scheme conflicts with the development plan read as a whole and that there are no material considerations to indicate a decision other than in accordance with the development plan. Consequently, the appeal should be dismissed.

J D Clark

INSPECTOR

⁵ Shropshire Council – Shropshire Local Development Framework – Type and Affordability of Housing Supplementary Planning Document (SPD), Adopted 12 September 2012.

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Appeal Decision

Site visit made on 14 September 2022

by Louise Nurser BA (Hons) Dip UP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 13 January 2023

Appeal Ref: APP/L3245/Y/22/3290422

Pentre Farm, Woodhill, Oswestry, SY10 9AS

- The appeal is made under section 20 of the Planning (Listed Buildings and Conservation Areas) Act 1990 against a refusal to grant listed building consent.
 - The appeal is made by Dr. Dennis Carter against the decision of Shropshire Council.
 - The application Ref 21/02451/LBC, dated 19 May 2021, was refused by notice dated 4 August 2021.
 - The works proposed are installation of 18no replacement windows affecting a grade II listed building.
-

Decision

1. The appeal is dismissed, and listed building consent is refused for the installation of 18no replacement windows affecting a grade II listed building.

Preliminary Matters

2. The works took place in 1997. As the proposal relates to a listed building consent, I have had special regard to sections 16 (2) of the Planning (Listed Buildings and Conservation Areas) Act 1990 (the Act).

Main Issue

3. The main issue is the effect of the works on the special interest of the Grade II listed building.

Reasons

4. Pentre Farm was designated as a Grade II listed building in 1986. It sits within a rural setting close to the Welsh borders. It was part of a substantial wider farmstead, many of the outbuildings remain, but have been, or are currently being converted into residential use.
5. The two storey farmhouse dates from the sixteenth century. There is a datestone of 1695, which suggests that it was remodelled in the late seventeenth century. In common with other buildings of historic interest, it has been further altered and extended, including a nineteenth century full length lean-to at the rear, associated with the extension's former role as a dairy.
6. Nonetheless, it retains considerable historic and architectural interest as a large farmhouse, with a central hall range with a projecting two storey gabled porch and flanking cross wings. Much of the historic fabric has been retained, including a late seventeenth century carved oak staircase, and an inner door at the front, which is decorated with studded nails and strap hinges.

7. Externally, the farmhouse is imposing, with decorative brick work, at first floor level of the gable ends to the front of the property. As such, it is clear that the large farmhouse was a substantial building and was attributed significant status given the decorative flourishes both within and outside of the building.
8. In the context of the appeal before me, the significance of the listed building derives from its historic construction, plan form and evolution as a working farm, including the nineteenth century alterations, whilst at the same time retaining its predominant late seventeenth century character.
9. However, following the works, the subject of the appeal, the evidential significance of the fenestration has been removed. There is no dispute that the replacement windows did not result in any alterations to the size or number of window openings. Moreover, it is clear from the limited evidence which I have before me that the double glazed, replacement timber windows, whilst produced by a local craftsman, do not accurately reflect the detailed appearance of the previous fenestration and have resulted in the loss of important historic fabric, including original glass. For example, the mid-nineteenth century casement windows which were referred to within the listing have been removed. These six light windows appear from the photographs to have had glazing bars which were thinner than the outer frame. This contrasts with the replacement frames, which on site, all look to have simple, glazing bars and frames of the same width, and are of a crude design. The photographic evidence suggests that these earlier windows, which have a strong vertical emphasis were of an elegant appearance and provided more light than the current nine light windows with heavy glazing bars.
10. Similarly, the windows on the north-west elevation have been replaced with glazing which appear to have more lights than the windows which were shown in the photographs accompanying the appeal. These included larger panes of glass, which were possible with advances in glass production and appeared consistent with the listing which references a nineteenth century extension across the rear of the property.
11. Again, the windows facing the garden are substantively different to the simple sliding sash windows which are shown in the picture of the dining room within the appellant's evidence. Other subtle, but important differences include the loss of a projecting sill which is evident on the photo of the north-east elevation, but which has not been replaced as part of the works. In sum, the replacement windows do not accurately reflect what was there.
12. As such, cumulatively, this has had an adverse impact on the heritage asset not only through the loss of the historic fabric, but also on the appearance of the building introducing a uniformity of style which is inconsistent with the historic development of the building, and a consequential loss of the evidential value in determining the legibility of the farmhouse. As such, I conclude that this has resulted in less than substantial harm to the significance of the designated heritage asset.
13. I have been referred to the poor state of repair of the property which lay empty for a considerable period of time prior to its purchase by the appellant. I accept that they have undertaken considerable work to ensure that it is a habitable home. Nonetheless, whilst I have carefully considered the Colley's Structural Survey, there is nothing within it which recommended the wholesale replacement of the windows, and even if it did, further detailed assessment of

the state of the individual windows would be required. It is well established that it is possible for most windows to be successfully repaired even where they appear to be in poor condition.

14. I understand that some windowpanes were broken, and that other window frames required overhauling to ensure that they did not let in draughts and rain. Others required general maintenance including regular painting, and the provision of new, or repaired catches. The windows were described as a mix of original and more modern, albeit it is unclear what is meant by modern.
15. I also note the problems described in the report in relation to penetrating dampness from the window surrounds, and the issues involving condensation and subsequent vulnerability to wet rot. However, there is not the compelling evidence before me to suggest that any of the windows were beyond repair, nor that the windows were a significant cause of the issues of dampness, or that the lack of effective ventilation and heating which impacted on the building, could not be otherwise resolved. Therefore, I do not consider that the removal and replacement of all the windows in the manner that has occurred was necessary to protect the heritage asset or secure its future.
16. I have been referred to the changes in fenestration being part of the continuing evolution of the building. However, whilst in the past, windows had been altered reflecting changes in fashion, or repairs, or alterations to the building, this does not alter the protection which the fabric of the listed building enjoys, and the current control over further alterations which necessitate careful consideration of the asset in the context of its national importance.
17. Paragraph 199 of the National Planning Policy Framework 2021 (the Framework) advises that when considering the impact of development on the significance of designated heritage assets, great weight should be given to their conservation. Paragraph 200 goes on to advise that significance can be harmed or lost through the alteration or destruction of those assets or from development within their setting and that this should have a clear and convincing justification. Given my conclusions set out above, I find the harm to be less than substantial in this instance but nevertheless of considerable importance and weight.
18. Under such circumstances, paragraph 202 of the Framework advises that this harm should be weighed against the public benefits of the proposal, which includes the securing of optimal viable use of listed buildings. The appellant is of the opinion that the works were beneficial because of the requirement to reduce water ingress, draughts, dampness, and retain heat, and as such, positively impacts on the protection of the heritage asset. However, for the reasons set out above, I consider that these benefits were achievable through alternative less destructive methods, and the benefits derived from the works are not sufficient to outweigh the harm that I have identified.
19. Given the above, I conclude that the works fail to preserve the special historic and architectural interest of the Grade II listed building, thus they fail to satisfy the requirements of the Act, paragraph 197 of the Framework and development plan policies CS6, CS17 of the Shropshire Local Development Framework: Core Strategy, adopted 2011 and policies MD2 and MD13 of the Shropshire Council, Site Allocations and Management of Development Plan adopted 2015, which cumulatively seek to protect local distinctiveness, and loss of significance to designated heritage assets, insofar as relevant.

Other Matters

20. I am aware of the lack of objections to the application for the listed building consent, the support from Oswestry Rural Parish Council and that there have been no complaints to the Council during the extensive time period in which the windows have been installed. I have also been referred to the visit by a representative of English Heritage, now known as Historic England, who did not mention the replacement windows. However, none of these circumstances alter my conclusion.

Conclusion

21. For the reasons given above I conclude that the appeal should fail.

Louise Nurser

INSPECTOR



Appeal Decision

Hearing held on 18 and 19 January 2023

Site visit made on 19 January 2023

by **J M Tweddle BSc(Hons) MSc(Dist) MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 6th February 2023

Appeal Ref: APP/L3245/W/22/3305992

Land to the east of Adcote School and to the South of Adcote Barn, Little Ness, Shrewsbury, Shropshire

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
 - The appeal is made by Mr Richard Walker of Adcote School Ltd against the decision of Shropshire Council.
 - The application Ref 22/01947/FUL, dated 22 April 2022, was refused by notice dated 20 June 2022.
 - The development proposed is three new detached dwellings.
-

Decision

1. The appeal is dismissed.

Preliminary Matters

2. At the hearing the parties confirmed the appeal site address as that set out in the banner heading above.
3. A signed and dated Unilateral Undertaking was submitted by the appellant at the hearing. This seeks to achieve a financial contribution to fund restoration works to the adjacent Grade I listed building. I shall return to this matter below.

Main Issues

4. The main issues in this appeal are:
 - Whether the site is a suitable location for residential development, having regard to the local development strategy for the area; and
 - Whether the proposal would preserve the setting of Adcote and adjoining forecourt walls, a Grade I listed building

Reasons

Suitability of location

5. The appeal site is an irregular parcel of land that forms part of a larger agricultural field located to the immediate east of Adcote School, a private school for girls and a Grade I listed building. The site is bound to the north by the narrow public highway along Back Lane, known locally as Bunny Lane. To the south and east, the site is generally surrounded by open countryside, reinforcing its intrinsic rural character. The proposal would see the site developed to provide three detached dwellings, with access off Bunny Lane.

6. The development plan comprises the Shropshire Local Development Framework Core Strategy 2011 (the Core Strategy) and the Shropshire Council Site Allocations and Management of Development Plan 2015 (the SAMDP).
7. Policy CS4 of the Core Strategy sets out the Council's strategic approach to development in the rural area, with development directed towards Community Hubs and Community Clusters. It specifically states that development will not be allowed outside these settlements unless it meets the requirements set out in Core Strategy Policy CS5. A list of defined Community Hubs and Community Clusters is set out in Schedule MD1.1 of Policy MD1 of the SAMDP. At the hearing, it was established that the appeal site does not fall within any of these defined hubs or clusters. Furthermore, it is common ground between the parties that the site is located in the open countryside for the purposes of planning policy, and I agree. However, the parties also agree that the site is not isolated.
8. Policy CS5 is clear that new development in the countryside will be strictly controlled in accordance with national policy. Furthermore, market-led housing is not a development type specified for support by Policy CS5, nor would it meet any of the criteria for managing the development of housing in the countryside as set out in Policy MD7a of the SAMDP.
9. I acknowledge that Policy CS5 supports development proposals on *appropriate sites* which maintain and enhance countryside vitality and character and where they improve the sustainability of rural communities by bringing local economic and community benefits (my emphasis). However, this policy provision cannot be considered in isolation, therefore regard must be had to the development plan's spatial strategy as a whole, in order to establish if the appeal site represents an appropriate site for the proposal.
10. The provisions of Policy MD7a are clear and unambiguous in that the policy will only support housing development in the countryside in certain circumstances, which have not been demonstrated in this case. Therefore, I cannot conclude that the proposal is an appropriate site for the proposed development. Thus, the proposal would conflict with Policies CS5 and CS4.
11. The appellant acknowledges that the proposal would not meet the criteria listed in Policy MD7a and so they accept that the proposal would be in conflict with this policy. In this regard, the main point of dispute at the hearing was whether this policy, and the Council's general strategy in relation to development in the countryside, is consistent with the approach to rural housing as set out in the National Planning Policy Framework (the Framework).
12. It is the appellant's view that the restrictions set out in Policy MD7a do not take account of what they consider to be the more general approach to rural housing advocated by paragraphs 78 and 79 of the Framework. However, during our discussion at the hearing, no specific policy inconsistencies were identified. Nevertheless, there is nothing within the Framework that precludes the Council from setting out detailed criteria to manage housing development in the countryside, as is set out by Policy MD7a.
13. Furthermore, through the application of Policy MD1 of the SAMDP and Policies CS4 and CS5 of the Core Strategy, the development plan makes provision for housing development within Community Hubs and Community Clusters that have been identified across the rural area. This is consistent with the Framework's approach to promoting sustainable development in rural areas acknowledging

that where there are groups of smaller settlements, development in one village may support services in a village nearby. Therefore, for the purposes of this appeal, these policies are up to date and carry full weight.

14. The site is not served by any means of public transport and, as I observed during my visit, Bunny Lane is a narrow road with no pedestrian footways or lighting. As such, even when recognising the transport differences between urban and rural areas, the future occupiers of the development would be heavily reliant on the use of private vehicles to access day to day services and facilities in nearby settlements. Such a lack of accessibility by means of transport other than the private car weighs significantly against the proposal and is contrary to the sustainable transport aims of the Framework. The proposal's location would therefore give rise to unsustainable patterns of movement.
15. Bringing these points together, I find that the proposal would frustrate the Council's spatial strategy and run contrary to the provisions of the development plan when considered as a whole. In doing so, the proposal would undermine public trust and confidence in the established plan-led approach to managing development and lead to an over-reliance on the use of private vehicles to access services and facilities. Therefore, I conclude that the site is not a suitable location for residential development, having regard to the local development strategy for the area.
16. The proposal is therefore in conflict with Policies CS4, CS5 and CS11 of the Core Strategy and Policies MD1 and MD7a of the SAMDP, and the associated policies of the Framework, which together seek to achieve sustainable patterns of development and an appropriate type and mix of housing that meet the needs of rural communities.

The setting of Adcote and adjoining forecourt walls

17. Section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 (the Act) states that in considering whether to grant planning permission for development which affects a listed building or its setting, special regard shall be had to the desirability of preserving the building or its setting, or any features of special architectural or historic interest.
18. The Framework defines the setting of a heritage asset as the surroundings in which it is experienced. The extent is not fixed and may change as the asset and its surroundings evolve. Elements of a setting may make a positive or negative contribution to the significance of an asset, may affect the ability to appreciate that significance or may be neutral. The Framework is clear that when considering the impact of a proposed development on the significance of a designated heritage asset, great weight is to be given to the asset's conservation; the more important the asset, the greater that weight should be. In this regard, the Framework also advises that the significance of a designated heritage asset can be harmed or lost through development within its setting, and such harm requires clear and convincing justification.
19. The significance of a heritage asset is defined in the Framework as its value to this and future generations because of its heritage interest. That interest may be archaeological, architectural, artistic or historic. Significance derives not only from a heritage asset's physical presence, but also from its setting.

20. The appeal site lies to the immediate east of Adcote School, a former country residence and Grade I listed building identified on the national list as 'Adcote and adjoining forecourt walls', hereafter referred to as Adcote House. There is no dispute between the parties that the appeal site forms part of the setting of the Grade I listed building.

Special interest and significance

21. Adcote House and its landscaped surroundings originate from the latter part of the 19th century, having been developed between 1876 and 1881 for Mrs Rebecca Darby, a member of the wealthy and influential Darby Ironmasters of Coalbrookdale. The house was designed by the renowned architect Richard Norman Shaw, and despite its short history as a country residence and the fact that it has been used as a boarding school for well over 90 years, the main house remains largely unaltered from its original design. As a Grade I listed building Adcote House is acknowledged as being of exceptional national importance and a designated heritage asset of the highest significance.
22. The house is a fine example of a vernacular revival style, with Shaw's design comprising a complex multi-gabled arrangement with tall chimneys influenced by late-medieval and Tudor styles in a relatively seamless manner with an abundance of mullioned and transomed windows throughout. At its core is the impressive great hall, a full-height medieval-style hall spanned by moulded transverse stone arches, springing from moulded stone corbels and supporting a crown-post roof construction. There is a sizable minstrel's gallery over a decorative wooden screen passage entrance, a baronial-style fireplace, and decorative wood panelling, with the space lit by a huge oriel window to the southwest corner.
23. Of particular interest is the association with Richard Norman Shaw. Shaw is considered to be one of the most important and influential architects of his time, with his work having influenced English architecture for decades. Adcote House is one of the largest of Shaw's country manor houses and is broadly recognised as one of his best works. The building exemplifies his vernacular revival style and is designed to suggest the gradual and seamless evolution of a high-status country dwelling over several centuries; from a house based on the communal medieval great hall to the many-windowed mansions of the Tudor and Jacobean periods.
24. Therefore, I find the significance of Adcote House to be primarily derived from its special architectural and historic interest, as a building of outstanding architectural merit, and designed by one of the most influential and renowned architects of the day.

Setting and contribution to significance

25. The setting of Adcote House is formed by the extensive grounds in which it sits and the wider rural landscape that surrounds the property. Map regression analysis, provided as part of the appellant's heritage impact assessment¹, demonstrates that Adcote House once comprised a far more extensive parkland that appears to have had a conscious design associated with the house. This has diminished over time due to changing ownership and more intensive agricultural practices that have eroded some of its parkland characteristics. This, along with

¹ A Heritage Impact Assessment of Proposed Development by Richard K Morris, dated April 2022

some modern development within the grounds of the school, has weakened the historical and functional associations between the listed building and its setting.

26. Nevertheless, today Adcote House is set within an extensive rural landscape, with its former parkland setting still legible to a large extent. Although the immediate setting of Adcote House and its associated buildings is relatively well defined, the general spaciousness of the wider area, including the appeal site, provides a rural context which forms an integral part of its historic setting. Being positioned on an area of raised land, the house exerts a commanding presence over the surrounding area. This rural landscape setting accentuates the historic and architectural interests of Adcote House as a grand country residence and local landmark.
27. The western and southern extent of the asset's setting make a greater contribution to the significance of the heritage asset, nevertheless, this does not diminish the contribution made by the rest of the parkland setting, which includes the appeal site. Therefore, despite some erosion of the site's former parkland character, its historic association with the listed building and existing undeveloped rural character allows an appreciation of the interrelationship between the listed building and the surrounding landscape, thereby contributing positively to the significance of the heritage asset.

The proposal and its effects

28. The proposal would introduce three detached two storey dwellings into the appeal site. The siting of three sizable dwellings of a form and design more akin to a suburban context into this historically undeveloped land would detrimentally alter the spacious rural character of the site and adversely weaken the land's historical and functional associations with Adcote House. The development would be particularly perceptible on the approach along Bunny Lane and be seen as an obvious incursion into the rural setting of the listed building. This would detrimentally compromise the setting of the heritage asset and in doing so diminish the contribution it makes to the significance of Adcote House.
29. Whilst the heritage asset, particularly the main house, could be argued to be visually separated from the appeal site by vegetation and topography, the absence of a strong visual connection is not a determinative factor. This is because 'setting' is not just about a visual juxtaposition, but rather the historic context of the heritage asset, in this case, the building's rural landscape setting and its historical association with this former parkland, that makes a contribution to its significance and integrity as a heritage asset. Therefore, it is the physical presence, form and character of the proposal that would be harmful to the setting and its contribution to significance.
30. In any case, my site visit confirmed a visual connection between the appeal site and the eastern boundary wall of the former kitchen garden. Therefore, whilst the proposal would not detract from principal views of Adcote House, such as those along the main approach, it would nevertheless detract from views of the robust boundary wall to the former kitchen garden, altering how this important component of the listed building is experienced and appreciated.
31. Accordingly, whilst the site may not afford key views of the principal elevations of the main house, it, nevertheless, affords some limited views of the robust eastern boundary wall of the former kitchen garden and, in doing so, enables an appreciation of Adcote's commanding position in relation to the appeal site and

the surrounding landscape. This appreciation and relationship with the surrounding landscape within the eastern extent of the asset's setting would be harmfully eroded as a result of the proposal.

32. My attention has been drawn to a grant of planning permission² for the development of two accommodation buildings that would also be located within the setting of the listed building, to the northwest of the main house. However, I do not have the full details of this scheme before me or the circumstances in which it was found to be acceptable. In any case, it appears to represent a different type and form of development at a differing location, therefore it is not directly comparable to the appeal scheme.
33. Bringing all these points together, the proposed development would fail to preserve the setting of the Grade I listed Adcote and adjoining forecourt walls. As a consequence, therefore, the proposed development would not satisfy the statutory duty set out at Section 66(1) of the Act. For these reasons, the proposed development would also be contrary to Policy CS17 of the Core Strategy and Policy MD13 of the SAMDP, which together seek to protect and enhance Shropshire's historic environment by ensuring that wherever possible, proposals avoid harm or loss of significance to designated heritage assets, including their settings.

Heritage balance

34. In accordance with paragraphs 201 and 202 of the Framework, it is for the decision maker, having identified harm to a designated heritage asset, to consider the magnitude of that harm. In this case, given the location, extent, and nature of the proposal relative to Adcote House and its setting as a whole, I find the harm to be less than substantial, under the terms of the Framework.
35. Whilst the appellant considers that the proposal would have a neutral effect, that would preserve the setting of the listed building, at the hearing they suggested that if any harm arises, this would be towards the lower end of the less than substantial harm spectrum.
36. Nonetheless, in *Shimbles*³, the High Court addressed the concept of a spectrum of harm to heritage assets and the necessity to make a judgement beyond the binary classification of harm identified in the Framework. The judgment concluded that decision makers were not obliged to place harm that would be caused to the significance of a heritage asset, or its setting, somewhere on a 'spectrum' in order to give the necessary great weight to the asset's conservation. The Framework's division of harm into categories of 'substantial' or 'less than substantial' was adequate to carry out the weighted balancing exercise to determine whether a planning proposal was acceptable.
37. I therefore do not consider it necessary to apportion a particular metric upon any spectrum of less than substantial harm. This is because a finding that the collective harm to significance would be at the lower end of such a spectrum would not equate to a less than substantial planning objection and regardless is to be afforded considerable importance and weight.
38. When less than substantial harm to the significance of a designated heritage asset is identified, the Framework requires the harm to be weighed against the

² LPA Ref. 13/04560/FUL

³ R on behalf of Simon Shimbles v City of Bradford MBC [2018] EWHC 195 (Admin)

public benefits of the proposal including, where appropriate, securing its optimum viable use.

Enabling development

39. Paragraph 208 of the Framework states that an assessment should be made as to whether the benefits of a proposal for enabling development, which would otherwise conflict with planning policies but which would secure the future conservation of a heritage asset, outweigh the disbenefits of departing from those policies. An appropriate scheme for enabling development would therefore amount to a public benefit, by securing the future conservation of a heritage asset that is of national importance.
40. The appellant has submitted a Unilateral Undertaking which they consider will secure a financial contribution of circa £300,000 from the value of the development to fund the cost of urgent repairs to the roof of the adjacent listed building, Adcote House. Despite this, the appellant asserts that the appeal proposal is not put forward as a scheme of enabling development because, in their view, the proposal does not give rise to any conflict with the development plan and would not result in harm to the heritage asset. Instead, they consider this financial contribution to simply be a philanthropic benefit offered in favour of the proposal. Nevertheless, the appellant's planning statement sets out a case for enabling development for "consideration by the local planning authority if they consider there to be a strong justifiable case on policy grounds to consider it".
41. In my judgement, in putting forward the Unilateral Undertaking for consideration as part of the appeal, it is the appellant's intent to secure funds from the development that would *enable* restoration works to the adjacent listed building, and for this to be considered as a benefit to support their case. It is therefore logical to consider whether the proposal would indeed secure these conservation works as a form of enabling development and, if so, whether this would outweigh the heritage harms along with the other policy conflicts I have identified. This assessment is not a matter of choice, but instead the correct application of the Framework's policies.
42. Historic England's *Historic Environment Good Practice Advice in Planning Note 4: Enabling Development and Heritage Assets*, published June 2020, (GPA4) sets out specific guidance and criteria to be used in the assessment of enabling development proposals. GPA4 is, therefore, a relevant material consideration to which I attach substantial weight. At the hearing, the discussion on enabling development was framed around the guidance set out in GPA4 and, therefore, it is against this that I have considered the scheme.
43. GPA4 sets out a series of tests to establish whether a case for enabling development is justified and has been robustly made, in order to satisfy the assessment required under paragraph 208 (formerly 202) of the Framework. The guidance in GPA4 is clear that a case for enabling development rests on there being a 'conservation deficit'.
44. A conservation deficit is defined as the amount by which the cost of repair (and conversion to optimum viable use if appropriate) of a heritage asset exceeds its market value on completion of repair and conversion, allowing for all appropriate development costs. The guidance is also clear that because the harm done by enabling development is likely to be permanent and irreversible, a scheme for

- enabling development is likely to be a last resort after all other alternatives have been robustly explored and discounted, including all potential sources of public and private investment.
45. Adcote House was placed on Historic England's National Heritage at Risk Register in 2019. A Condition Survey⁴ prepared for the appellant confirms that a number of external repairs are required, the most urgent of which are repairs to the roof. Roof repairs have been fully costed and estimated in the region of £289,000. During my visit, I was also able to see areas of water ingress from the roof over the Great Hall within the listed building. Therefore, I acknowledge that the building is in need of urgent repairs.
 46. Nevertheless, the appellant accepts that a conservation deficit has not been identified in this case and there is nothing to suggest that the current use is not economically viable. It has therefore not been demonstrated that an enabling development would be the only means of securing the future of the heritage asset, as there is little evidence before me to demonstrate that the appellant has explored less harmful alternatives, or that a conservation deficit is even likely to exist.
 47. Furthermore, from the submitted evidence it is not clear how the appellant has arrived at the amount of enabling development that is required to fund the restoration works to the listed building. The financial contribution is based on the uplift in the land value in the event that planning permission is granted for the appeal scheme. However, this does not account for the value of the development as a whole. I am therefore unable to conclude that the proposed development would represent the minimum required to repair the roof of the listed building and secure its future conservation.
 48. In my judgement, the financial interest of the owners of the listed building is likely to be sufficient to safeguard the building from total loss or at the very least to ensure it is maintained in accordance with statutory minimum requirements. I am therefore not satisfied that it has been sufficiently demonstrated that a scheme for enabling development would be a measure of last resort and the only means by which the future of the heritage asset could be safeguarded.
 49. Accordingly, under paragraph 208 of the Framework, and when assessed against the guidance set out in GPA4, the proposal would not constitute a scheme of enabling development that would secure the future conservation of a heritage asset.
 50. In any case, the Unilateral Undertaking offered by the appellant seeks to address the provision of a financial contribution from the owner of the site to Adcote School, in order to facilitate renovation works to the Grade I listed building. However, the legal agreement provides no definition of the 'renovation works' nor is there an accompanying schedule to specify the extent of these renovations. The agreement provides no timescale for the implementation or completion of the works, and the delivery of the restoration works is not tied to any stage of the proposed development. Furthermore, the Council is not a party to the legal agreement and Clause 9 specifically excludes persons who are not a party to the deed from enforcing any terms of the deed.

⁴ Adcote School Main Buildings Survey and Condition Report by Arrol Architects Ltd, dated December 2021

51. Given these deficiencies, the effect and enforceability of the Unilateral Undertaking are highly uncertain. At the hearing, the appellant suggested that these points, and some other minor technical issues, could be addressed by way of some revisions to the agreement. However, a revised agreement was not forthcoming.
52. Consequently, the agreement provides no certainty that any heritage benefits can be secured or delivered to an acceptable standard. Therefore, the agreement is fundamentally flawed and as such, I attached no weight to this as a heritage benefit.
53. To overcome this, the appellant has suggested that a planning condition could be imposed to secure the submission of a scheme of renovation works to be approved by the LPA prior to the commencement of development and then implemented before the third house is occupied. However, this does not overcome the fact that a case for enabling development has not been demonstrated and therefore the condition would not overcome the planning harms that I have identified and the consequent conflicts with the development plan. Furthermore, the wording is such that if the development was only partially implemented, for example, if the third house was never completed or occupied, then the heritage benefits may never be realised. Nor would this provide any certainty over the completion of the works to the listed building.
54. Moreover, it would be unacceptable to leave such a substantive matter to be dealt with by condition, because in the absence of a detailed scheme, which the condition would require, I am unable to assess whether or not this would indeed be an appropriate scheme of renovation works or assess the level of public benefit this might accrue. I also note that the works are likely to be so substantial as to require Listed Building Consent, which has not been achieved.

Other public benefits

55. The appellant has put forward a number of community benefits that they consider would accrue from providing funds for the renovation of the adjacent listed building, which in their view would ensure the building's continued use for a variety of community events and activities. However, as I have found that the proposal would not secure any renovation works to the listed building, I am unable to consider these matters as public benefits.
56. I acknowledge that the proposal would make a contribution to the local supply of new homes. Economic and social benefits would flow from the construction and occupation of the new dwellings, as well as from future occupiers supporting local services and facilities in nearby settlements. There would also be public funds generated through Council Tax revenues. These benefits are tempered by the limited amount of development that is proposed but nevertheless, carry moderate weight in favour of the appeal.
57. Nevertheless, there is little evidence to suggest that the existing use of the listed building would cease in the event that the appeal was to fail. It has not therefore been demonstrated that the proposed scheme is necessary to maintain the optimum viable use of the listed building.
58. Bringing these points together, the identified harm to the significance of the listed building, by virtue of harm to its setting, attracts considerable importance and weight in the balance. Consequently, the public benefits would not outweigh

the harm I have found, and therefore the proposed development would conflict with the Framework's aim to conserve heritage assets in a manner appropriate to their significance.

Other Matters

59. The appellant has drawn my attention to positive pre-application discussions and advice issued by the LPA prior to the submission of the planning application. Having reviewed this advice, I do not find it to be conclusive. I am also mindful that pre-application discussions are informal and not binding on any future decision the LPA may make once a proposal has been subject to the formal planning process.
60. Subject to the imposition of conditions, no objections were received in relation highway safety, ecology or trees. Nevertheless, these are neutral considerations that weigh neither for nor against the appeal.
61. I have already considered the public benefits of the proposal and weighed these against the heritage harm. I have found these to be of insufficient weight to outweigh the heritage harm and therefore there do not provide a justification to allow the appeal.
62. I have had regard to the other permissions and appeal decisions that the appellant has drawn to my attention. However, these other cases reflect different locational circumstances and differing amounts and types of development. Therefore, I have necessarily considered the appeal proposal on its own merits and consequent effects.

Conclusion

63. I have found that the proposal would not be in a suitable location for residential development, having regard to the local development strategy for the area. In this regard, the proposal would harmfully undermine the LPA's spatial strategy. In addition, the proposal would fail to preserve the setting of an adjacent Grade I listed building, and, in doing so, would harm the significance of the designated heritage asset.
64. For these reasons, the proposal would conflict with the above-cited policies of both the development plan and the Framework. The public benefits and other material considerations advanced in favour of the appeal are not of sufficient weight to outweigh these conflicts.
65. Consequently, for the reasons given, and having regard to all other matters raised, I conclude that the appeal should be dismissed.

J M Tweddle

INSPECTOR

APPEARANCES

FOR THE APPELLANT:

Miss Rebecca Dennis <i>MRTPI</i>	Pegasus Group
Mr Simon Britt <i>IHBC MRTPI</i>	Pegasus Group
Mr David Giles	Freehold Owner of the Appeal Site

FOR THE LOCAL PLANNING AUTHORITY:

Mrs Jane Raymond	Senior Planning Officer
Mr Andy Wigley <i>MCIFA</i>	Policy and Environment Manager
Mrs Karen Rolfe	Conservation Officer

INTERESTED PARTIES:

Mr Richard Forrester	Local Resident
Mrs Mellissa Satoor	Local Resident
Mrs Diana Forrester	Local Resident

DOCUMENTS SUBMITTED AT THE HEARING:

Unilateral Undertaking, dated 17 January 2023

LPA Response to the Draft Unilateral Undertaking, dated 18 January 2023

OTHER DOCUMENTS:

Pre-Hearing Note from the Inspector, dated 13 January 2023

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Appeal Decision

Site visit made on 16 January 2023

by Ben Plenty BSc (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 16th February 2023

Appeal Ref: APP/L3245/D/22/3304718

131 The Mount, SHREWSBURY, Shropshire SY3 8PG

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
 - The appeal is made by Mr and Mrs I Hebborn against the decision of Shropshire Council.
 - The application Ref 22/02131/FUL, dated 4 May 2022, was refused by notice dated 1 July 2022.
 - The development proposed is a two-storey rear extension.
-

Decision

1. The appeal is allowed, and planning permission is granted for a two-storey rear extension at 131 The Mount, Shrewsbury SY3 8PG in accordance with the terms of the application, Ref 22/02131/FUL, dated 4 May 2022, and the plans submitted with it, subject to the following conditions:
 - 1) The development hereby permitted shall begin not later than three years from the date of this decision.
 - 2) The development hereby permitted shall be carried out in accordance with the following approved plans: Location Plan 22/2254/01, Proposed block plan 22/2254/03 rev A, Proposed elevations 22/2254/07 rev A, and Proposed floor plans 22/2254/06 rev A.
 - 3) the materials to be used in the construction of the external surfaces of the development hereby permitted shall match those used in the existing building

Preliminary Matters

2. Amended plans were submitted to the Council during its consideration of the proposal. This was of a reduced scale in comparison to the original submission and subject to re-consultation with neighbouring occupiers. I have therefore based my decision on the revised scheme without causing prejudice to any party.
3. The appeal is supported by a Daylight and Sunlight Report, concerning the effect of the proposal on the occupiers of 133 The Mount (No 133). As this is new evidence, the Council and occupier of No 133 were given an opportunity to comment on its contents, with the Appellant providing final comments.

Main Issues

4. The main issues are:
 - The effect of the proposal on the living conditions of neighbouring occupiers, with particular regard to outlook, and

- The effect of the proposed extension on the character and appearance of the area.

Reasons

Living conditions

5. The appeal dwelling is a detached property within a row of houses that are predominantly semi-detached. The property is on a hill with a slight rise, with No 133 being around 1.5 metres lower than the appeal dwelling. This change in levels results in the boundary wall and fence being around three metres high.
6. The Council does not appear to employ separation distance requirements or explain in guidance how it assesses the effect of extensions on neighbours. Consequently, assessments with respect to the effect on neighbouring occupiers are made by planning judgement alone. The neighbouring dwelling of No 133 is a semi-detached property that includes a two-storey rear return and a side conservatory with a canopy roof (also referred to as a day room in evidence). Photographs, in evidence, show the views from most rear and side facing windows of this property. Rear facing first floor windows appear to serve bedrooms, the side window at first floor serves a bathroom, and the rear and side facing ground floor windows serve a kitchen, dining room and WC.
7. Several of the side windows serve non-habitable rooms, such as the bathroom and WC. The kitchen window provides light to a relatively large space that would be deemed as a habitable room for the purpose of this assessment. The bedroom window, above the conservatory, provides a primary view of the garden of No 133. The proposed extension would be around four metres from the side wall of the neighbour's property.
8. The outlook from the neighbour's bedroom window is partially constrained by the side wall of this property's rear return, the boundary fence and the existing rear return of the appeal dwelling. In plan form the proposed extension does not intercept the 45-degree line plotted from the centre point of this bedroom window. This shows that views from this window, within the main field of vision of an observer, would be largely unaffected by the proposal. The kitchen's side windows principally overlook the high side boundary over a distance of around 4 metres. The proposed extension, whilst tall from this perspective, would be set away from the boundary, limiting its effect. As such, whilst views from the bedroom and kitchen would be partially enclosed by the proposal this change would not represent an appreciable difference that would demonstrably harm the occupier's outlook from these rooms.
9. Furthermore, although neighbouring dwellings beyond No 133 to the west and southwest are on lower land, these are a substantial further distance from the site. As a result, occupiers of these properties would also not experience a demonstrable loss of outlook.
10. Consequently, the proposal would not result in an adverse effect on the living conditions of neighbouring occupiers with respect to outlook. Accordingly, the proposal would satisfy policy MD02 of the Site Allocations and Management of Development Plan (DP), policy CS6 of the Shropshire Core Strategy (CS) and the National Planning Policy Framework (the Framework) with respect to the effect on living conditions. These seek, among other matters, for development

to safeguard residential amenity and achieve a high standard of amenity for existing users.

Character and appearance

11. The appeal site is within a suburban area. Housing within The Mount consists of various styles which are largely traditional in form. These have deep rear gardens with a consistent front building line. Whilst housing on Richard Drive, to the west of the site, are on smaller plots, these are also a common distance from the street. Accordingly, local housing forms a regimented perimeter block pattern of development. As the appeal dwelling accords with the local development pattern, it makes a positive contribution to the character and appearance of the area.
12. The appeal dwelling is a traditional brick building with a small two-storey rear return and a staggered rear elevation. The proposal would remove the existing rear return and replace this with a larger extension. Whilst on plan this appears a sizeable depth and width, especially in consideration of the boundary to the east, its western side would project to a lesser extent than the depth of the existing dwelling. Also, its width would be less than the width of the existing house, somewhat mimicking the configuration of neighbouring housing. Furthermore, the ridge of the proposal would be lower than the main roof. As such, whilst being deeper and taller than the existing rear return it would remain subservient and be proportionate to the main dwelling.
13. Moreover, neighbouring housing along The Mount, include two-storey rear returns that are of a consistent depth. As such, the proposed scheme would align with the depth of adjacent built form and accord with the local pattern of development. Consequently, the proposal would complement the character and appearance of the host dwelling and the surrounding area.
14. The site is within Shrewsbury Conservation Area. The significance of which appears to derive from its traditional form of housing in a suburban setting. The proposal would only be glimpsed from the highway, being to the rear of the existing dwelling. As a result, the proposal would complement the character and appearance of the area and preserve the significance of the conservation area.
15. Accordingly, the proposal would accord with DP policy MD02, CS policy CS6 and the Framework in consideration of matters of character and appearance. These policies seek, among other matters, for development to contribute and respect locally distinctive character and be appropriate in scale, density, pattern and design.

Other Matters

16. The Appellant's Daylight and Sunlight Report considers the effect of the proposal on the occupiers of No 133. This concludes that the proposed scheme would mostly have a low impact on the sunlight and daylight received by the neighbouring dwelling on all but the dining room window which would fail BRE guidelines¹. Nevertheless, sunlight through this window is already compromised by the canopy of the day room and the proposal would have a limited further effect on sunlight reduction with this taken into account. Also, most of the garden would continue to receive over two hours of sunlight, in compliance

¹ Building Research Establishment (BRE) Guide 2022

- with the BRE Guidelines. Accordingly, the proposal would have a limited impact on occupiers of No 133 with respect to sunlight and daylight.
17. The single storey side and rear extension of No 129 includes a number of obscurely glazed side widows at ground floor and a bedroom and bathroom window at first floor. The bedroom window is on the rear elevation of this property, alongside its rear return, and primarily overlooks its rear garden. Due to its elevated position it's outlook, and access to sunlight and daylight, would not be materially affected. The side facing bathroom window serves a non-habitable room where access to sunlight is not normally protected. The side facing ground floor windows are largely above the fence line and receive borrowed light from over the appeal site. Due to their elevated position, proximity to the boundary and being obscurely glazed, these windows would not experience a material reduction in outlook, sunlight or daylight.
 18. The proposal would be served by rear windows that would primarily overlook the Appellant's rear garden. Although views over private neighbouring gardens would be possible, such views would be oblique and similar to views from existing first-floor windows of neighbouring dwellings. Consequently, the proposal would not overlook neighbouring gardens to an extent that would result in an adverse impact on privacy.
 19. The party wall act establishes the requirement for an applicant to inform neighbouring parties when work is proposed to party walls. Any requirement for such notification is a matter outside of my consideration of the planning merits of the case and relate to private civil matters.
 20. The construction of the proposed development may cause some noise and disturbance for local residents. However, these effects would be temporary and limited by construction hours governed by environmental legislation. These would not cause a prolonged adverse impact on living conditions. Matters raised in regard to the potential structural impacts of the proposal would be addressed through the building regulation approval process and would not be for my consideration.
 21. The area of the garden, within the footprint of the proposed extension, is relatively open and contains several small ornamental plants. Consequently, there is no clear evidence to demonstrate that the proposal would result in a deleterious effect on wildlife or result in the loss of mature trees.
 22. Interested parties have raised concerns with respect to the effect of the proposal on local drainage. The proposal includes two en-suites and an extended kitchen. Whilst these would increase the drainage requirements of the site, the degree of change to local drainage load would be negligible and would have no material effect on the local drainage capacity.

Conditions

23. It is necessary to apply conditions in connection with a commencement period and list the approved plans to accord with the PPG. It is also necessary for materials to match the main dwelling in the interests of the character and appearance of the area.

Conclusion

24. There are no material considerations that indicate the application should be determined other than in accordance with the development plan. For the reasons given above, I therefore conclude that the appeal should be allowed, and planning permission is granted subject to the listed conditions.

Ben Plenty

INSPECTOR

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Appeal Decision

Site visit made on 9 January 2023

by Tom Bristow BA MSc MRTPI AssocRICS

an Inspector appointed by the Secretary of State

Decision date: 21st February 2023

Appeal Ref: APP/L3245/W/22/3304991

Old Port Cottage, Llwyn Road, Oswestry SY10 7AA

- The appeal is made under section 78 of the Town and Country Planning Act 1990 as amended against a refusal to grant planning permission.
 - The appeal is made by Mr and Mrs Pritchard against the decision of Shropshire Council.
 - The application ref. 21/05972/FUL, dated 22 December 2021, was refused by notice dated 17 February 2022.
 - The development proposed is described on the application form as 'change of surface of existing equestrian manège and all associated works.'
-

Decision

1. The appeal is dismissed.

Procedural matters

Existing use

2. This proposal follows a previously unsuccessful application for a manège.¹ I have determined the current proposal on its merits, the details of which differ from its predecessor. Nonetheless the previous application form stated that the existing use of the site was 'grazing for horses'. The Council's decision notice in respect of the current scheme describes the proposal as including change of use. Material changes in use are development under section 55(1) of the Town and Country Planning Act 1990 as amended (the '1990 Act').
3. Conversely the appellants state that the existing use of the site, presently principally rough grass, is as an equestrian manège. At the time of my site visit there was a wooden post and rail fence in place along with various show jumps. It may be that an equestrian use is ancillary to a residential use. Jumps or other equestrian paraphernalia may not amount to operational development. There is, however, no definitive information as to whether the scheme represents a change of use, or whether anything that already exists is lawful (for example a certificate of lawful development, 'CLD', under section 191 or 192 of the 1990 Act). More importantly there is an appeal before me, and the question of change of use is not integral to my reasoning.

Surrounding context

4. The site is to the south of what is described in list entry no. 1014899 as the scheduled monument of 'Old Oswestry hillfort, and two adjacent sections of Wat's Dyke'.² It is some 50m from the nearest edge of the hillfort (as set out in

¹ Ref. 20/01309/FUL.

² Under section 1 of the Ancient Monuments and Archaeological Areas Act 1979 as amended.

the appellant's Historic Environment Desk-Based Assessment, 'HEA'). The site is in the lee of the hillfort, at a relative low point in the topography. A drainage ditch or leat tracks broadly east west by the edge of wider holding. The site falls about 70m from two sections of Wat's Dyke, both of which are within the same ownership as Old Port Cottage. Those sections of Wat's Dyke are bisected by an historic track. The track connects Llwyn Road to a cluster of buildings in commercial use by the B5069. That cluster is annotated as 'Oldport' on historic mapping as far back as 1830.

Policy context

5. Each proposal must be determined in accordance with the development plan unless material considerations indicate otherwise.³ The site falls within the countryside, some 250 metres or less from the built form of Oswestry.⁴ Paragraph 174. b) of the National Planning Policy Framework ('NPPF') sets out how planning should contribute to and enhance the natural and local environment, including by recognising the intrinsic character and beauty of the countryside. In headline terms policy CS5 of the Shropshire Core Strategy (adopted February 2011, the 'CS') seeks to 'strictly control' development in the countryside in accordance with national planning policies, including via the maintenance of countryside character.⁵ CS policies CS6 and CS17 similarly set out how, amongst other things, development should appropriately protect the natural and historic built environment.
6. In summary, policy MD2, criterion iii., and policy MD13 of the Site Allocations and Management of Development Plan (adopted December 2015, 'SAMDev') seek to ensure that development integrates suitably with the historic environment. Similarly NPPF paragraphs 189 and 199 set out how great weight should be given to the conservation of designated heritage assets, irreplaceable resources, relative to their significance. Significance may be affected 'indirectly', i.e. by virtue of changes to the surroundings in which an asset is experience. Not all change is harmful, and not all elements of setting contribute equally to significance.

Main issue

7. Against the background above, the main issue is the effect of the proposal to the significance of the scheduled monument.

Reasons

Significance and setting

8. The hillfort is a fine example of a large multivallate hillfort. Having been established for defensibility on a glacial mound, it is an imposing feature in the landscape. It was created by sculpting the land. Although likely dating principally from the Iron Age, there is evidence of a long continuity of human settlement there, including neolithic remains. The current form of the scheduled monument represents a complex and organic accretion of change over time.

³ Section 38(6) of the Planning and Compulsory Purchase Act 2004 as amended.

⁴ Appellants' Design and Access Statement.

⁵ Notwithstanding my reasoning in paragraph 3 of this decision and that equestrian development is not expressly referenced in CS policy CS5.

9. Its form has inevitably softened such that, superficially, it is difficult to tell where human interventions in the landscape begin or end. Likely during the eighth century the hillfort was incorporated in the line of Wat's Dyke. Wat's Dyke, a bund and ditch of variable size, now patchy, runs between the Dee Estuary by Holywell to the River Morda. It is commonly seen as the eastern boundary of the Welsh or Brython kingdoms at that juncture, with the kingdom of Mercia beyond (a precursor to Offa's Dyke).
10. Insofar as relevant to this appeal, the significance of the scheduled monument lies not only in its form, fabric, archaeology, but also its interaction with its surroundings. Significance and landscape are intertwined. That interplay, along with the historic evolution of the scheduled monument and local landform, attests to broader historic and cultural trends.

The proposal

11. In brief the proposal is for post and rail fencing enclosing an area of about 42 by 25m. The supporting section plan illustrates the proposed construction method.⁶ The manège would be created by digging down to provide for surfacing and a stone sub base (separated from each other, and the underlying earth, by geotextile membranes). There would be drainage stones and pipes beneath. Engineering operations fall within the 1990 Act definition of development.
12. Reflecting the slight topographical change through the appeal site, the appellants explain how 'the surface area of the existing arena will need to be levelled on the eastern and southern ends of the site', and that 'the ground levels will need to be raised slightly to match the existing ground levels and these edges will be sloped and grassed'. Posts would appear as about 1.37m above ground level. They would be set within concrete to a depth unannotated on the section plan; a maximum level change of 0.8 metres is, however, indicated.⁷ The arena surface would have a muted earth hue and tone.⁸

The effect of the proposal

13. The list entry explains that the banks and ditches of the hillfort to the north and west are generally better preserved than towards the south. There have been various changes in the land towards the south of the hillfort and east of the two sections of Wat's Dyke in the past few centuries. Those include the planting of trees around the hillfort itself (commensurate with certain landscaping philosophies of the mid-nineteenth century).
14. Parts of Llwyn Coppice further southwards beyond the site were, around the late nineteenth century, worked as a gravel pit. There is now a playground there. A pond is also shown by the track referred to above in the Ordnance Survey ('OS') map of 1875, over the line of Wat's Dyke. The track is now flanked by power lines. I am told a water main also runs by it. Old Port Cottage is shown on the OS map of 1926, as is residential development projecting further northwards of Oswestry at that juncture than previously. Manèges and other equestrian facilities are not uncommon in rural and semi-rural areas. The

⁶ Plan No. RB-MZ746-03.

⁷ Appellants' statement of case, section 5.2.

⁸ As described in paragraph 2.3 of the appellants' statement of case with a sample photograph provided.

appellants have drawn my attention to a scheme permitted by the Council for a comparably-sized manège at Nant Lane.⁹

15. However neither that different elements of the hillfort are differently preserved, nor the presence of 'modern' interventions in the landscape, justify allowing development that would undermine significance. Many of the interventions referenced immediately above, utilities, a playground, and housing are types of development with associated public benefits (albeit that there is no evidence before me of the circumstances that led to their establishment, and many appear to pre-date modern planning).
16. Furthermore, in my view, the appeal site and its surrounding landscape retain a predominantly rural character. The landscape immediately south of the hillfort and east of Wat's Dyke remain largely open and natural visually. Those would likely have been appropriate descriptors for many centuries if not millennia, regardless of enclosure.¹⁰ I saw that the Llwyn Coppice playground is nestled within mature trees such that it does not significantly affect those qualities. On account of the topography, Llwyn Coppice around the crest of another glacial mound, and the winding route of Llwyn Road, there is little sense of being near Oswestry (notwithstanding visibility from atop the hillfort).
17. Inherent in my reasoning above, being principally rough grass, the site contributes positively to what appears as an essentially natural landscape character (albeit in small measure on account of its size). By extension at present it contributes positively to the landscape setting of the scheduled monument, which is an important part of significance. I was unable to identify other manèges in the immediate vicinity, or indeed similarly significant development attributable to the last few decades. The Nant Lane scheme falls several miles away from the hillfort as opposed to several metres.
18. The proposal would inherently be a staunchly geometric, regular feature. It would be formed of imported and engineered materials, inconsistent with the way in which the form of the scheduled monument arose and evolved over time. Although the landscape here has been altered by human intervention historically, that intervention has softened over the centuries such that it is difficult to see the differentiation between the two. As reasoned above the surroundings to the south of the hillfort and east of the sections of Wat's Dyke have a principally natural, organic and soft-edged character.
19. The proposal would furthermore artificially subdivide existing field parcels which reflect a long historic continuity. Neither the fencing proposed, nor the appearance of the manège surface would change with the seasons, as would be the case of much of the surroundings. For the foregoing reasons, setting aside use, the proposal would represent a discordant intervention in the setting of the scheduled monument, detracting from significance. I therefore disagree with the appellants' position that the low or very low impacts ascribed to the scheme would not result in adverse effects to significance.¹¹ That is a matter of judgement; different individuals taking account of the same matters may rationally come to different perspectives.

⁹ Planning permission ref. 21/01813/FUL.

¹⁰ As noted in correspondence of 25 May 2021 from Trysor on behalf of the appellants, with reference to the date of enclosure in the area referenced in the Shropshire Landscape Typology Study of 2006.

¹¹ As referenced in the Trysor correspondence of 14 February 2022 on behalf of the appellants.

20. The Council indicate that the site has 'moderate to high archaeological potential'. The HEA indicates that the nature of the site's surroundings is suggestive of 'a high archaeological potential'.¹² Archaeological remains are rarely confined to neat areas, and even minor disturbance may be harmful owing to the importance of context to understanding.¹³ The list entry states that the landscaping of the Llwyn Coppice playground, and also the pond referred to above, will have modified the archaeological remains present. That reinforces the foregoing reasoning in terms of the potential for archaeological remains to be located here.
21. In that context the proposal would represent a fairly significant physical intervention in the land. Excavation of up to 0.8m in depth has, in my view, clear potential to adversely affect archaeological interest which may contribute to the understanding of the significance of the scheduled monument in its wider context. Some mitigation could be achieved by way of an appropriately-worded condition (were the proposal acceptable as a whole).
22. However there is little substantive evidence before me related to the archaeological potential at the site itself as opposed to indications drawn from the wider area. I am told that no archaeological finds were identified in the construction of the water main. However there is no indication of how that main was laid, its depth or size, or to what extent it interacted with the former construction of the track by it. I cannot therefore rule out adverse effects to ecological interest on the basis of the evidence before me, even were I to impose such a condition.

Consideration

23. Drawing together my reasoning, the proposal would represent an incongruous, geometric and artificial intervention in a landscape characterised principally by its natural, open and organic character (which honestly attests to a complex and extensive historic evolution). Consequently, and also on account of potential disturbance to archaeological interest, the proposal would be detrimental to the setting and significance of the scheduled monument. As significance and landscape character are intertwined, the proposal would thereby conflict with the relevant provisions of the development plan policies and provisions of the NPPF set out in paragraphs 5 to 6 of this decision.

The planning balance

24. As referenced above the site is a small part of the setting of the scheduled monument, a setting which has been altered more recently in ways which do not contribute to significance. To some extent the muted tone and hue of the proposal relative to what may be undertaken here in any event would moderate landscape effects. Archaeological impacts could be reduced by way of condition, if not avoided altogether.
25. In that context the proposal may fairly be described as resulting in less than substantial harm. Nevertheless NPPF paragraph 200 makes clear that any harm should require 'clear and convincing justification'. Paragraph 202 further sets out that where a development proposal will lead to less than substantial harm

¹² Paragraph 1.6, noting paragraph 11.10 also.

¹³ Planning Practice Guidance, reference ID: 18a-041-20190723.

to the significance of a designated heritage asset, this harm should be weighed against the public benefits of the proposal.

Planning balance

26. I acknowledge the importance of suitable facilities for exercising horses, for lungeing in particular. 'Natural' land may be unsuitable or unsafe for certain activities at certain times, for both horses and riders. The proposal would clearly improve the site, and the land associated with Old Port Cottage, in respect of keeping horses. However that is essentially a private benefit.
27. The appellants have suggested that vegetation clearance could be undertaken to better reveal the two sections of Wat's Dyke within their ownership. There is a further suggestion of the installation of an interpretation panel.¹⁴ However I have set out above that historic significance is not just embodied in the original nature of the scheduled monument, but that changes over time honestly attest to history. The scheduled monument is fundamentally part of the land, and has softened into its landscape context.
28. There is nothing to suggest that vegetation clearance would improve an appreciation of significance in terms of historic accuracy, or some former state, albeit I accept that it may do purely in terms of legibility. Moreover vegetation clearance, or the installation of an interpretation panel, are not dependent on the proposal before me. Although the latter may aid an understanding of history to those who happen upon the area, it would do nothing to offset or mitigate the effects of the manège as reasoned above. Neither the public benefits of the scheme, nor any other relevant matters, are sufficient to outweigh the harm that would result.

Conclusion

29. For the above reasons, having taken account of the development plan as a whole along with all other relevant material considerations, I conclude that the appeal should be dismissed.

Tom Bristow
INSPECTOR

¹⁴ Noting NPPF paragraph 206 in that context.



Appeal Decision

Site visit made on 9 January 2023

by Tom Bristow BA MSc MRTPI AssocRICS

an Inspector appointed by the Secretary of State

Decision date: 21 February 2023

Appeal Ref: APP/L3245/Q/22/3298512

Inglish Court, Croeswylan Lane, Oswestry SY10 9PT

- The appeal is made under Section 106B of the Town and Country Planning Act 1990 as amended against a refusal to discharge a planning obligation.
 - The appeal is made by Mr Ben Power against the decision of Shropshire Council.
 - The development to which the planning obligation relates is the erection of a two storey dwelling (permitted via decision notice dated 17 September 2015, ref. 13/02031/FUL).
 - The planning obligation, dated 16 September 2015, was made Gary Davin Power and Shropshire Council.
 - The application ref. 21/00014/DSA106, dated 14 December 2020, was refused by notice dated 10 November 2021.
 - The application sought to have the planning obligation discharged.
-

Decision

1. The appeal is dismissed.

Context

2. Section 106 of the Town and Country Planning Act 1990 as amended (the '1990 Act') makes provision for obligations. An obligation, by way of a planning agreement dated 16 September 2015 (the 'S106'), was entered into in respect of planning permission ref. 13/02031/FUL (the '2015 permission'). The 2015 permission was for a new dwelling, now named Inglish Court.¹ I am told there is a Building Regulations completion certificate of 28 May 2021 in respect of it.
3. The S106 contains an obligation that a contribution of £9,000 is made in connection with the development to fund affordable housing provision elsewhere. That figure appears fixed, rather than the S106 making provision for changes over time (by virtue of inflation or indexation). The S106 further requires that the contribution be made 'within 2 years of the commencement of a material operation of the development'.² I understand the trigger for that timeframe occurred around 22 June 2018.³
4. Paragraph 55 of the latest iteration of the National Planning Policy Framework (published 20 July 2021, the 'NPPF2021') explains how consideration should be given to whether 'otherwise unacceptable development could be made acceptable through the use of conditions or planning obligations'. NPPF2021 paragraph 57 further explains that planning obligations must only be sought

¹ I understand that permission was granted at the juncture the S106 was correctly executed.

² With reference to section 56(4) of the 1990 Act.

³ With reference to the Community Infrastructure Levy commencement notice and paragraph 3.9 of the Council's statement of case; the Council's correspondence to the appellants of 6 August 2020 referring to the need to make the payment by 22 June 2020.

where they meet three tests,⁴ to which elements of the Planning Practice Guidance relate ('PPG'). Those three tests are the same as applied in 2015.⁵

5. The appellant argues principally that the S106 should be discharged, or waived.⁶ In the event that I do not agree, the appellant has suggested that it be modified such that the affordable housing contribution 'is to be repaid upon sale of the property.' Section 106A(6)(b) of the 1990 Act sets out that 'if the obligation no longer serves a useful purpose' it shall be discharged. Section 106A(6)(c) alternatively sets out that if the obligation continues to serve a useful purpose, but would 'equally well' serve that purpose subject to proposed modifications, then it shall have effect subject to those modifications.

Main issue

6. Against the context above, the main issue is whether the affordable housing obligation continues to serve a useful purpose. If it does, I will then consider whether it would serve that useful purpose equally well subject to the modification proposed by the appellant.

Reasons

7. Policy CS11 of the Shropshire Core Strategy (adopted February 2011), the policy context in which the S106 was established, preceded the initial version of the NPPF (published on 27 March 2012, the 'NPPF2012'). Its adoption also preceded the Written Ministerial Statement of 28 November 2014 ('WMS2014') in which the Government set out that for sites of 10 units or less, affordable housing contributions should not be sought.⁷ The WMS2014 has since morphed into NPPF2021 paragraph 64, which sets out that 'provision of affordable housing should not be sought for residential developments that are not major developments, other than in designated rural areas (where policies may set a lower threshold of 5 units or fewer).'
8. The S106 was, inevitably, created in the economic context at that time. The pandemic, inflation and interest rate changes have all since unforeseeably occurred. Via guidance published in April 2013,⁸ the Government set out how 'unrealistic' section 106 agreements related to affordable housing provision 'negotiated in differing economic conditions can be an obstacle to house building.' The 1990 Act was amended to make specific provision in that respect, albeit that those provisions lapsed on 1 May 2016.⁹
9. The NPPF2021, legislation, and potential forthcoming changes to Government policy all support, in principle or prospectively, self and custom build housing.¹⁰ I empathise with the circumstances the appellant is in. I am told that the construction of English Court proved to be higher than expected on account of unforeseen circumstances. That, along with court proceedings dealing with the

⁴ Replicated in regulation 122 of the Community Infrastructure Levy Regulations 2010 as amended.

⁵ That an obligation must be a) necessary to make the development acceptable in planning terms; b) directly related to the development; and c) fairly and reasonably related in scale and kind to the development.

⁶ As set out in the appeal form, to which the provisions of section 106A(3)(b) of the 1990 Act relates.

⁷ HCWS50.

⁸ 'Section 106 affordable housing requirements: Review and appeal'.

⁹ Section 106BA, 106BB and 106BC introduced, and repealed by, the Growth and Infrastructure Act 2013.

¹⁰ Including NPPF2021 paragraph 62, the Self-build and Custom Housebuilding Act 2015, the NPPF prospectus published on 22 December 2022 and the Levelling-up and Regeneration Bill before Parliament. Self-build may also be exempt from Community Infrastructure Levy (PPG reference ID: 25-082-20190901).

legal implications of the S106, has understandably been a significant stressor. That has clearly adversely affected the appellant and the appellant's family.

10. It may be, however, that many agreements agreed at earlier dates seem out of step with current circumstances; it would be well-nigh impossible to ensure all obligations are perpetually in step. At 16 September 2015, the date on which the S106 was executed, there had been a successful challenge to the WMS2014.¹¹ That position was only reversed via judgement handed down on 11 May 2016.¹² Therefore, chronologically, planning permission was granted at a juncture when there was nothing preventing securing affordable housing contributions from sites of 10 or fewer dwellings.
11. The disputed obligation was formulated to achieve compliance with Core Strategy policy CS11, in the context of the same tests on the use of obligations as now apply, and was agreed by the appellant. The application to which this appeal relates, ref. 21/00014/DSA106, was made on 14 December 2020.¹³ Therefore the dispute has only apparently arisen several years after the appellant's CIL compliance statement dated 22 June 2018. In itself that post-dates the judgement of 11 May 2016 referenced above by quite some time. Accordingly current Government policy, even though it has been moved on, does not justify undoing a legitimately established agreement retrospectively.
12. The pandemic, inflation and interest rate changes will all have affected the costs involved in construction, financing and the labour and housing market. However those effects are complex and multifaceted, arguably more so than the 2007-2008 financial crisis (which, at its core, related to credit, global markets and housing). In part amendments to the 1990 Act referenced above were responses to the legacy of the financial crisis, to address 'stalled schemes due to economic unviable affordable housing requirements...'.¹⁴ Those amendments had sunset clauses, reinforcing my reasoning in paragraph 10 of this decision.
13. I empathise that the appellant is in financial difficulty. However, noting that the onus is principally on an applicant to substantiate their case,¹⁵ there is no robust evidence before me in terms of viability (for example in terms of accounts, budgets relative to anticipated costs of the build process, valuation information, or in relation to the nature of the local housing market). The 2013 guidance referenced in paragraph 8 of this decision focusses on viability, in respect of which there is extensive guidance in the PPG.
14. Planning and construction are often challenging and stressful, including as uncertainties and risks are borne by those undertaking development. As with circumstances since 2015, however, mental wellbeing is multifaceted. Although Government policy is supportive of self-build housing, that is not unqualified; planning serves many objectives. Those objectives include seeking to provide homes for different groups, including those who require affordable

¹¹ West Berkshire District Council Reading Borough Council v Department for Communities And Local Government [2015] EWHC 2222 (Admin), judgement handed down on 31 July 2015.

¹² Secretary of State for Communities and Local Government v West Berkshire District Council & Anor [2016] EWCA Civ 441.

¹³ There is also correspondence of 26 August from the appellant to the Council indicating that the 'contribution could/ should be waived under the circumstances'.

¹⁴ Paragraph 2 of the 2013 guidance referred to in paragraph 8 of this decision.

¹⁵ Section 62(3) of the 1990 Act.

housing (NPPF paragraph 62). In absolute terms the affordable housing contribution of £9,000 is small. Nevertheless its intended purpose is to support provision of accommodation for those unable to access accommodation on the open market, the lack of such provision in all likelihood entailing stresses for those unable to find suitable accommodation.

15. In that context the Council sets out, undisputedly and uncontroversially, that there are pressing needs for affordable housing nationally and within Shropshire. I am told that in December 2022 there were 465 eligible households recorded in the Oswestry Urban area as in need of affordable housing. The disputed obligation would contribute towards addressing those needs. Fundamentally, therefore, the disputed obligation still serves a useful purpose.
16. That useful purpose would not be equally well served subject to the modification proposed by the appellant, namely that the affordable housing contribution should be 'repaid upon sale of the property'. Affordable housing needs exist now, and there is nothing to indicate that those needs have reduced since the juncture at which the S106 was signed. That suggested modification is also not time-specific, in that there is no indication as to when the property would be sold.
17. Furthermore inflation and interest rates have risen since 2015 such that the 'value' of £9,000 now is less than it would have been in 2020. Whilst that may not always be the case, for example in a deflationary environment, the relative value of the contribution in terms of practically securing affordable housing provision is already lower than had it been made in line with the S106 provisions and timing. Therefore the housing obligation would not continue to serve the foregoing useful purpose equally well subject to the modification proposed by the appellant.

Conclusion

18. For the above reasons I conclude that the appeal should be dismissed. I appreciate this decision may have implications for the appellant and their family. However in the foregoing context, any interference with their human rights would nonetheless be justified, necessary and proportionate.¹⁶

Tom Bristow
INSPECTOR

¹⁶ With reference to the European Convention on Human rights incorporated into domestic legislation via the Human Rights Act 1998 as amended.

By virtue of paragraph(s) 6a, 6b, 7 of Part 1 of Schedule 12A of the Local Government Act 1972.

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