

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

Date: Monday, 26 February 2024

### Committee: Northern Planning Committee

**Date:** Tuesday, 5 March 2024

**Time:** 2.00 pm

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

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

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  
Steve Charmley  
Julian Dean  
Roger Evans  
Nat Green  
Vince Hunt (Vice Chairman)  
David Vasmer  
Paul Wynn (Chairman)

#### Substitute Members of the Committee

Roy Aldcroft  
Gerald Dakin  
Steve Davenport  
Mary Davies  
David Evans  
Julia Evans  
Nigel Hartin  
Nick Hignett  
Pamela Moseley  
Ed Potter

Your Committee Officer is:

**Emily Marshall** Committee Officer

Tel: 01743 257717

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

# AGENDA

## 1 Apologies for Absence

To receive apologies for absence.

## 2 Minutes (Pages 1 - 4)

To confirm the Minutes of the meeting of the North Planning Committee held on 6<sup>th</sup> February 2024, attached, marked 2.

Contact: Emily Marshall on 01743 257717; or  
Tim Ward on 01743 257713.

## 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, 28<sup>th</sup> February 2024.

## 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 Land East of A529 Woodseaves, Market Drayton, Shropshire (23/02652/FUL) (Pages 5 - 26)

Change of Use of land to Gypsy / Traveller site for 2 family pitches to include the erection of amenity buildings, improvement of access and installation of Bio-Disc sewage treatment plant

## 6 Proposed Affordable Housing Exception Site West Of Merrington Road, Bomere Heath, Shrewsbury, Shropshire (23/02934/FUL) (Pages 27 - 52)

Rural exception site comprising the erection of 19 affordable dwellings, vehicular, pedestrian and cycles access from Merrington Road, open space, sustainable urban drainage system, landscaping and associated works

## 7 Riverside Shopping Centre, Pride Hill, Shrewsbury, Shropshire (23/05402/FUL) (Pages 53 - 82)

Demolition of the Riverside Shopping Centre and related activity, enabling works including boundary wall and the formation of a new public park following demolition, to include pocket gardens, event space and amphitheatre, accessible ramp, lift and staircase, flood attenuation and temporary meanwhile uses across the Site.

## 8 Appeals and Appeal Decisions (Pages 83 - 104)

## 9 Date of the Next Meeting

To note that the next meeting of the North Planning Committee will be held at 2.00 pm on Tuesday, 9<sup>th</sup> April 2024, in the Shrewsbury Room, Shirehall, Shrewsbury.

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## Committee and Date

Northern Planning Committee

5 March 2024

## **NORTHERN PLANNING COMMITTEE**

### **Minutes of the meeting held on 6 February 2024**

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

**2.00 - 3.20 pm**

**Responsible Officer:** Tim Ward

Email: tim.ward@shropshire.gov.uk      Tel: 01743 257713

### **Present**

Councillors Paul Wynn (Chairman), Joyce Barrow, Garry Burchett, Geoff Elner, Ted Clarke, Julian Dean, Roger Evans, Vince Hunt (Vice Chairman), David Vasmer and Steve Davenport (Substitute) (substitute for Steve Charmley)

### **74 Apologies for Absence**

Apologies for absence were received from Councillors Steve Charmley and Nat Green

Councillor Steve Davenport substituted for Councillor Charmley

### **75 Minutes**

#### **RESOLVED:**

That the Minutes of the meetings of the Northern Planning Committee held on 31 October 2023 and 7 November 2023 be approved as a correct record and signed by the Chairman.

### **76 Public Question Time**

There were no public questions received.

### **77 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.

### **78 Land South Of Hollins Lane Newport Road Woodseaves Market Drayton Shropshire (19/05127/EIA)**

The Principal Planning Officer introduced the application for the construction of two poultry sheds, feed bins and associated ancillary works. He reminded Members that the application had come before them at the November meeting of the Committee and been deferred in order that more information around the odour assessment

could be obtained. He stated that this information had been received and was considered satisfactory. Members' attention was drawn to the information contained within the Schedule of Additional Representations and also that the proposed would result in 'less than substantial harm' to heritage assets at the lower end of the scale

In accordance with Shropshire Council's Scheme for Public Speaking at Planning Committees the Solicitor read out a statement from Sutton upon Tern Parish Council against the proposal

Nick Williams, 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.

A Member asked whether it would be possible to add a condition as the Parish Council had suggested requiring the installation of ammonia scrubbers in all 4 of the existing poultry houses. The Principal Planner advised that this would not be possible as the remaining 2 buildings were outside the area of this application and the need for this change would need to be justified.

Members felt that the application was acceptable and would not have a significant impact on the adjacent heritage asset and the amenity of local residents

Having considered the submitted plans and listened to the comments made by all of the speakers, it was

**RESOLVED:**

That in accordance with the officer recommendation, delegated authority is granted to the Planning and Development Services Manager to grant planning permission subject to the conditions as set out in Appendix 1 to the report and the schedule of late representations and any amendments to these conditions as considered necessary by the Service Manager.

**79 Ideal Home Bicton Heath House Knowsley Drive Bicton Heath Shrewsbury (23/03972/FUL)**

The Principal Planning Officer introduced the application for the Proposed demolition of existing care home wing and proposed new build care home wing. He confirmed that Members had conducted a site visit prior to the meeting

In accordance with Shropshire Council's Scheme for Public Speaking at Planning Committees the Solicitor read out a statement from Councillor Alex Wagner, Local Member against the proposal

Louise Wood, 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.

Members generally regretted the loss of the non-designated heritage asset but felt that the current building was not fit for purpose and that the new building would provide modern up to date facilities for both patients and staff.

Having considered the submitted plans and listened to the comments made by all of the speakers, it was

**RESOLVED:**

That in accordance with the officer recommendation, delegated authority is granted to the Planning and Development Services Manager to grant planning permission subject to the conditions included in Appendix 1 to the report and any amendments or additions to these as considered necessary by the Service Manager

**80 The Belvidere Crowmere Road Shrewsbury Shropshire SY2 5LA  
(23/04744/FUL)**

The Development Manager introduced the application for the Demolition of existing public house and the construction of a 2 and 3 bedroom residential development with new vehicular and pedestrian access. He confirmed that Members had conducted a site visit prior to the meeting

In accordance with Shropshire Council's Scheme for Public Speaking at Planning Committees the Solicitor read out a statement from Councillor Pam Moseley, Local Member.

David Knight applicant spoke in support of the proposal in accordance with Shropshire Council's Scheme for Public Speaking at Planning Committees

Members welcomed the scheme which would improve what was currently a very shabby site. They welcomed the amended layout which made provision for a bin storage area at the front of the site.

In response to a question the Development Manager confirmed that the previous planning application which had been for 7 houses had lapsed

Having considered the submitted plans and listened to the comments made by all of the speakers, Members unanimously agreed to support the Officer recommendation.

**RESOLVED:**

That in accordance with the officer recommendation, planning permission be granted subject to the conditions included in Appendix 1 to the report

**81 Appeals and Appeals Decisions**

**RESOLVED:**

That the appeals for the Northern area be noted.

**82 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 Thursday 15 February 2024 in the Shrewsbury/Oswestry Room, Shirehall, Shrewsbury.

Signed ..... (Chairman)

Date: .....





Committee and Date  
 Northern Planning Committee  
 5<sup>th</sup> March 2024

## Development Management Report

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

### Summary of Application

<b>Application Number:</b> 23/02652/FUL	<b>Parish:</b>	Sutton Upon Tern
<b>Proposal:</b> Change of Use of land to Gypsy / Traveller site for 2 family pitches to include the erection of amenity buildings, improvement of access and installation of Bio-Disc sewage treatment plant		
<b>Site Address:</b> Land East of A529 Woodseaves Market Drayton Shropshire		
<b>Applicant:</b> Mr H Toogood		
<b>Case Officer:</b> John Shaw	<b>email:</b> john.shaw@shropshire.gov.uk	

**Grid Ref:** 368849 - 330607

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

## REPORT

### 1.0 THE PROPOSAL

- 1.1 The application seeks planning permission to allow the creation of a Gypsy & Traveller site for 2 family pitches and includes the erection of 2 amenity buildings, improvement of access and installation of a Bio-Disc sewage treatment plant.
- 1.2 The static caravan would be used for permanent residential accommodation for 3 generations of one gypsy and traveller family who currently live nearby on a temporary basis at a private site The Paddocks, Warrant Road, Stoke-on Tern. During the application processing, the proposal has been amended to 2 small brick-built amenity blocks measuring approximately 6m x 6m with a height of 4m; the plans as originally submitted proposed one large amenity block measuring 15m x 8.2m. The number of pitches has also been reduced from 3 to 2.
- 1.3 The proposal would see the removal of the existing field gate access and its replacement with new entrance gates; new estate fencing would also be installed adjacent to the access while the apron would have a tarmac finish. The northern portion of the application site would be set aside as a pony paddock while a package sewage treatment plant would also be installed.
- 1.4 The current application follows on from an earlier refusal at the site (ref: 22/05367/FUL) which was for one open market bungalow dwelling. This application was refused on the basis that the *“application site occupies a countryside location outside any development boundary where market housing provision is not supported in principle by adopted development plan policies”* and *“On balance, it is considered that there are no social, economic and environmental benefits specific to the development which will outweigh either the harm to the plan-led system and housing strategy for the area or the site specific harm associated with the incursion of built development into the rural hinterland unnecessarily impacting on the intrinsic character and beauty of the countryside”*.

### 2.0 SITE LOCATION

- 2.1 The site is in open countryside within the settlement of Woodseaves and set equidistant between Market Drayton to the north and Hinstock to the south with the distance between the site and these settlements in both cases being approximately 3.5km/2.2 miles; Cheswardine is to the east.
- 2.2 The land is located to the east of the A529 with vehicular access off Haywood Lane, a C classified road located to the east of the site. The site area extends to approximately 0.17 ha and is described as a vacant paddock and forms a triangular piece of land set centrally within Woodseaves. The boundaries to the site are formed primarily of established hedgerows with some trees interspersed. The site shares a boundary with one residential property, Manor Cottage to the south.

### 3.0 REASON FOR DELEGATED DETERMINATION OF APPLICATION

- 3.1 The application has been referred to the committee for determination as the Planning Officer is recommending approval, contrary to the opinion of the Local Member and the Parish Council who both object to the scheme and have provided material reasons for this objection. The views of the Parish Council cannot reasonably be overcome by negotiation or conditions and the Planning Manager in consultation with the committee Chairman & Vice Chairman agrees that the Parish/ Council and local member have

raised material planning reasons that warrant the application to be considered by committee.

#### **4.0 COMMUNITY REPRESENTATIONS (full details of the responses can be viewed online)**

##### **4.1 - Consultee Comments**

##### **4.1.1 Sutton Parish Council – Objection**

2<sup>nd</sup> response 02/10/23:

*The Parish Council continues their objections to the resubmission of 23/02652/FUL land East of A529 for a Travelers Site, as previously set out on National Policy grounds, Policy CS12, its scale, access, ecology, drainage, and request that the application is called in for committee scrutiny.*

*The Parish Council is still not satisfied that the above resubmission has overcome any of the planning concerns previously stated in objections. Whilst we welcome highways pre conditions there is still a concern larger vehicles and caravans exiting the site will need to cross the carriageway and result in danger to other road users.*

*Concerns continue to be raised about the local connections of any potential families that would take up any of the on site plots highlighted within the application coupled with the new layout further breaking up the form and layout of the existing hamlet together with the height of the cables across the site.*

Planning Officer comment: It should be noted that there are no set minimum distances between properties and overhead lines and the National Grid considers each case on its own merits. It is not uncommon for residential and other development to be carried out beneath and adjacent to overhead lines and this is in evidence throughout Woodseaves.

1<sup>st</sup> response 28/07/23:

*1. National Policy - Planning Policy for Travellers sites: Policy C:14 (p4) When assessing the suitability of sites in rural or semi-rural settings, local planning authorities should ensure that the scale of such sites does not dominate the nearest settled community. The Parish Council is concerned that the application site breaches this policy as the footprint of a Gypsy/Travellers site in the proposed location would dominate Woodseaves.*

*2. Shropshire Local Development Framework: Policy CS12 Gypsy and Traveller Provision (p89) Supporting suitable development proposals for small exception sites (under 5 pitches) in accordance with Policy CS5, where a strong local connection is demonstrated; Ensuring that all sites are reasonably accessible to services and facilities ..... The Parish Council has seen no evidence of local connection or local need in terms of the application and consider that there are vacancies within other sites in close proximity to Woodseaves that could accommodate the number required within this application. The Parish Council would also argue that Woodseaves does not have reasonable access to services and facilities as required by the policy.*

*3. Scale: The scale of the accommodation block has more or less the same footprint of the previous bungalow application refusal (22/05367/FUL). Where the refusal reasoning detailed as follows. "6.3.4 In view of the above the size of the dwelling and the layout of the site is not considered appropriate and will have an unacceptable impact on the character and appearance of the area. As such this is contrary to policies CS5, CS6, CS11, MD2 and The SPD on the Type and Affordability of Housing of the Shropshire LDF and the NPPF." Therefore, the Parish Council believe the size of the amenity building plus an additional 6 caravans and 8 parking spaces will remain inappropriate and will have a more detrimental impact on the character and appearance on the area.*

4. Access: *The Parish Council remains very concerned about the access point onto a busy road with a number of 'near misses' not reported through to the Police and Highway Authority by local Parishioners. This is also compounded by the potential number of cars, commercial vehicles, caravans, and horse drawn vehicles parked on and accessing/egressing the site onto a busy road. On balance the Parish Council considers that there are no social, economic, or environmental benefits specific to this development which outweigh either the harm associated with the incursion of this built development into the rural hinterland unnecessarily impacting on the intrinsic character and beauty of the countryside.*

5. Ecology: *The Parish Council are concerned that no Ecology Report has been commissioned for this application to establish any migratory routes or other colonies in terms of the great crested newt at the site. Which we believe are present in nearby ponds, as confirmed by Parishioners.*

6. Drainage: *The Parish Council are also concerned that the results of tiaholes to establish that the proposed drainage field will be above standing water are not available as Parishioners have informed the Parish Council of local flooding and have highlighted the 'camber' on the field that will aggravate future flooding patterns as Climate Change conditions continue to produce highs and lows in terms of rain patterns that will start to become more the 'norm' in the near future.*

7. Calling in the Application: *The Parish Council supports the local Shropshire Councillor Rob Gittins request that this application is called in for a committee discussion/decision and would be available to send representation from the Parish Council to speak at any said planning meeting against the application.*

#### 4.1.2 **SC SUDS – No Objection subject to condition**

Planning Officer comment: Following a further response from the Council's SUDS team on 31/01/24 that stated, "*Details of an overflow from the harvesting system to the soakaway/attenuation should be submitted for approval*", it was subsequently confirmed that this detail could be submitted as part of discharging a drainage pre-commencement condition.

#### 4.1.3 **SC Highways – No Objection subject to conditions**

#### 4.1.4 **SC Ecology – No Objection subject to conditions**

Final Response 04/09/23:

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

*I have reviewed the information and plans submitted in association with the application and I am happy with the survey work carried out'.*

Initial response 28/07/23:

*'On review of the design and access statement (Trevor Mennell Planning, June 2023), an ecological report is due to be submitted. Please re-consult when this report has been received'.*

#### 4.1.5 **SC Gypsy Liaison – No Objection (03/03/23)**

*'The families who have submitted the application at Woodseaves have a strong local connection and the applicant along with his sister care for their elderly mother. They lived on Craven Arms site several years ago but left as it was too hectic for them as they are a quiet family. They have since lived on a private site in Shropshire before moving to their current local site which is overcrowded hence wanting to settle of their own site'.*

Planning Officer comment: The Gypsy Liaison Officer has since confirmed that the family are at the private site where they currently reside on a temporary basis; the pitches at the site have personal permissions and therefore when the named occupiers return from travelling, they would be expected to move.

#### 4.1.6 **SC Planning Policy: Comments provided**

*‘...In conclusion, whilst the Council’s most recent evidence (GTAA 2019 update) does not identify a general need for sites, it does recommend that applications for small sites should continue to be considered as a means of addressing specific arising needs. If it is considered that the applicants needs are such that they can no longer be met by their existing accommodation, the availability of suitable, alternative accommodation for the site occupants will be a key consideration.*

*In line with PPTS (paragraph 24) personal circumstances, alongside the other matters highlighted in national policy and the adopted Local Plan, are factors that should be taken into account in determining a planning application for a traveller site. These policy comments have however focused on the policy principles not personal circumstances or development management considerations such as amenity, character, highway and ecology matters.*

*It is beyond the remit of policy comments to consider personal circumstances in detail other than to note that the information submitted to support the application indicates that the site would be occupied by a child and an individual with health issues. The latter may also be relevant in considering any discriminatory impact of the application of PPTS Annexe 1 definition to the proposal. Government planning practice guidance (Paragraph: 028 Reference ID: 21b-028-20150901) on the determination of planning applications also indicates that, ‘local authorities need to consider whether children’s best interests are relevant to any planning issue under consideration’ and goes on to provide further guidance.*

*In conclusion, it is suggested that additional information would be helpful to clarify the applicants’ circumstances and pitch requirements. These matters, together with availability of suitable pitches and other material considerations, all need to be taken into consideration in the planning balance and determination of the planning application’.*

## 4.2 - Public Comments

4.2.1 This application was advertised via notice at the site and the Councils website. At the time of writing this report, a total of 42 people have submitted letters of representation with all letters objecting to the development. The reasons for the objections are summarised below:

- Noise and disturbance to local residents
- Unsuitable for the needs of the traveller community due to limited access to essential services such as healthcare and education
- There is sufficient provision of gypsy and traveller sites nearby
- Increased pressure on local amenities
- Highway safety concerns due to poor access, visibility, and intensification of the use of the junction and narrow lane
- Harm to local ecology
- Approval would be inconsistent with refusal for new homes in Woodsaves including at this site
- Uncertainty about the proposed occupiers
- Concern about whether the applicants meet the definition of gypsy and traveller

- Harm to visual amenity, unduly dominant and would be out of keeping with the character of the hamlet
- Development would be in the countryside and contrary to the policies of the Core Strategy and SAMDEV
- Light pollution
- Potential for the siting of additional transiting caravans on the site
- Risk to pedestrian safety along Haywood Lane
- Insufficient space for keeping of horses on site
- Impact on private water supplies
- Insufficient information relating to foul drainage facilities.
- Increased flood risk
- Inaccurate plans
- Impact on local heritage
- Excessive scale
- Impact on local power supply

- Planning Officer Comment on other reasons for objection: The proposal is for the residential occupation of the site by the applicant and his family; any potential non-residential uses of the site in the future by the applicant is not a material consideration. Nor is potential loss of value of neighbouring homes. Similarly, concerns that approval of the application could set a precedent is not a material planning consideration and carries no weight in the determination of the application. Each proposal is assessed on its own planning merits.

Concern has been raised that If permission were granted then this could be considered discrimination against non-travellers who have seen their applications for new homes locally refused. It should be stated that each application is considered against applicable national and local policies; weight must be given to policy CS12 'Gypsies and Traveller Provision' for example whereas this policy would not be a material planning consideration for an application for an open market dwelling. This matter is considered further in the main body of the report. It is concluded that this report has had due regard to the need to advance equality of opportunity between Gypsies and Travellers on the one hand, and non-Gypsies and Travellers on the other.

4.2.2 In addition, the local member, Cllr R. Gittins objected to the application for the following reasons:

1. No identified need for additional traveller accommodation in this area.
2. The proposal is not in keeping with the existing structures in the area.

## 5.0 THE MAIN ISSUES

- 5.1
- Policy and principle of development
  - Gypsy and traveller status
  - Impact on character and appearance of the area
  - Residential Amenity
  - Highways
  - Ecological Impacts
  - Drainage
  - Planning balance

## 6.0 OFFICER APPRAISAL

## 6.1 Principle of development

### *Policy Background*

- 6.1.1 Section 38(6) of the Planning and Compulsory Purchase Act 2004 and section 70(2) of the Town and Country Planning Act 1990 requires that applications for planning permission must be determined in accordance with the development plan unless material considerations indicate otherwise. The starting point for decision taking is therefore the development plan. Proposals that accord with an up-to-date plan should be approved, whilst proposals that conflict with the plan should be refused, unless other material considerations indicate otherwise (para 12 of the National Planning Policy Framework (NPPF) refers).
- 6.1.2 CS5 strictly controls development in accordance with national policies protecting the countryside. The policy lists housing exceptions that may be permitted on appropriate sites in countryside locations, to include those that meet a local need in accordance with national policies and policy CS12. Policy CS12 (Gypsy and Traveller Provision) recognises the need to meet the housing needs of the gypsy and traveller population and sets out how this will be achieved. Reference is made to supporting suitable development proposals for sites close to market towns and key centres and ensuring all sites are reasonably accessible to services and facilities. The supporting text of CS12 states the policy *'sets out a positive approach to meeting the accommodation needs of individuals and families through the encouragement and consideration of development proposals as they arise'* and this includes *'help to facilitate the provision of more private sites including where appropriate'*.
- 6.1.3 The SPD Type and Affordability of Housing (2012) goes on to advise that the need for Gypsy and Traveller sites in Shropshire is identified in the Gypsy and Traveller Accommodation Assessment and that, in assessing a planning application, the Council will consider whether the applicant is a bona fide Gypsy or Traveller and the availability of alternative suitable sites.
- 6.1.4 Gypsy and Traveller Accommodation Assessment (GTAA) identifies the needs of Gypsies and Travellers from across the county, the aim of which is to provide a robust evidence base to plan for future provision and to inform the consideration of planning applications.
- 6.1.5 The National Planning Policy Framework (2023) (NPPF) and the Planning Policy for Traveller Sites (2015 update) (PPTS) together provide the national policy basis for addressing the accommodation needs of the travelling community and are material considerations when determining planning applications which relate to gypsy and traveller sites.
- 6.1.6 The PPTS aims to promote more private traveller site provision and to increase the number of traveller sites in appropriate locations to address under provision while directing LPA to ensure new sites respect the scale of, and do not dominate, the nearest settled community, and avoid placing an undue pressure on the local infrastructure.
- 6.1.7 Paragraph 24 of the PPTS states LPAs should consider the following issues amongst other relevant matters when considering planning applications for traveller sites:
- a) *the existing level of local provision and need for sites*
  - b) *the availability (or lack) of alternative accommodation for the applicants*

*c) other personal circumstances of the applicant*

*d) that the locally specific criteria used to guide the allocation of sites in plans or which form the policy where there is no identified need for pitches/plots should be used to assess applications that may come forward on unallocated sites*

*e) that they should determine applications for sites from any travellers and not just those with local connections*

- 6.1.8 It is considered inappropriate to reference draft Policy DP8 of the emerging Local Plan (which addresses Gypsy and Traveller Accommodation) as a significant material consideration at this time as this plan remains under examination and a number of unresolved objections to DP8 have been raised.

*Sustainability of location*

- 6.1.9 Policy CS12 states that an application which seeks to meet the accommodation needs of the gypsy and traveller community will be supported if it is a suitable proposal located close to Shrewsbury, the Market Towns, key centres and Community Hubs and Clusters. Such a site may be in the countryside. The Council's Type and Affordability of Housing Supplementary Planning Document 2012 (SPD) recognises the extreme difficulties in obtaining sites for Gypsies and Travellers in towns and villages. Accordingly, it suggests new sites may need to be further outside recognised development settlements than would normally be the case for other developments. Furthermore, there is no specific requirement in the PPTS that gypsy sites should be close to facilities with provision made for appropriate sites in rural areas.
- 6.1.10 The PPTS (paragraph 25) does however state that '*Local Planning Authorities 'should very strictly limit new traveller site development in open countryside that is away from existing settlements or outside areas allocated in the development plan'*'. Paragraph 13 requires that policies ensure sites are economically, socially, and environmentally sustainable, avoid undue pressure on local infrastructure and ensure that access to health services and attendance at school is facilitated. It should be highlighted though that the PPTS only looks to strictly limit new Gypsy and Traveller sites in the open countryside, rather than to entirely prohibit such development.
- 6.1.11 Woodseaves is a recognised named settlement though it is not designated as a Community Hub or Community Cluster with a defined development boundary and therefore is situated in the countryside for planning policy purposes as defined by Policy CS5. The nearest settlements with development boundaries are Market Drayton to the north, Hinstock to the south, both approximately 3.5km/2.2 miles distant and Cheswardine 2 miles to the east.
- 6.1.12 The development would not represent sporadic and isolated development and instead sits within Woodseaves. It is accepted that Woodseaves does not have any local amenities such as a school, shops, or public transport, however, as stated, the Council's SPD recognises the extreme difficulties in obtaining sites for Gypsies and Travellers in well serviced towns and villages. This assessment was accepted in an appeal decision recently allowed at Five Oak Stables, Coton, Whitchurch (APP/L3245/W/22/3300532); that appeal site and the site subject of this application bear significant similarities in their relation to their accessibility to settlements which provide local services and as such that decision would be deemed to be a material consideration in assessing the accessibility of this gypsy and traveller site.
- 6.1.13 CS12 supports gypsy and traveller sites close to specified categories of settlements (see



paragraph 6.1.9); 'close to' is not defined though it is appropriate to consider a site with reasonable accessibility to services as being close to a settlement. Market Drayton, designated as Market Town by CS1 and CS3, is a key centre within north Shropshire hosting a range of local services, facilities, and employment opportunities and is just a 3-minute drive from the site. Hinstock, a Community Hub settlement, has a post office, primary school and public house and is also just a 3-minute drive while a similar driving time would apply to Cheswardine to the east which has a school and public house. Given the short drive times from the development to the nearest settlements with services and following on from the Inspector's decision for the Coton appeal, it is concluded that the site would be reasonably accessible. The occupiers could easily access a range of day-to-day services and facilities by car. In line with the NPPF, CS5 supports development that maintains and improves the sustainability of rural communities by bringing local economic and community benefits. The development's location near to Hinstock and Cheswardine and the short drive times means it is likely occupants could thereby support local services. The permanent occupation of the site by one family set across two pitches would not cause undue pressure on local infrastructure.

- 6.1.14 It is accepted that the site's occupants would likely rely on car travel for many trips. This would not be unusual given that the occupiers are Gypsies or Travellers who have a nomadic habit of life. CS12 does not explicitly require Gypsy and Traveller sites to be accessible by pedestrians or public transport. The policy allows new sites outside of settlements and so it is to be expected that accessibility by non-car modes of transport would be less when compared to developments in towns and villages. Also, whilst promoting walking, cycling and public transport, the NPPF recognises the opportunity to use sustainable modes of transport varies between urban and rural areas. Bearing in mind the rural location and the difficulty in finding Gypsy and Traveller sites in villages and towns, the site provides reasonable access to services and facilities. For these reasons, the development is in a suitable location having regard to CS5 and CS12, the PPTS, and the NPPF and would be consistent with the findings of the inspector as part of the recent Coton appeal.

*Need for Gypsy and traveller sites (GTAA)*

- 6.1.15 National Policy requires that need for Gypsy and Traveller sites is assessed by the LPA and expects a 5-year supply of sites against locally set targets to be identified along with supply over at least a 10-year period.
- 6.1.16 The GTAA 2019 update identifies a potential cultural need for 113 pitches (of which 43 pitches were identified as PPTS need). With evidenced turnover (i.e., existing pitches which become available over the period to 2038) expected to continue at an average of 9.3 pitches p.a., the GTAA 2019 update assessed that there is no residual shortfall in pitches (for cultural or PPTS need) either over the initial 5 year or whole plan period. Therefore, it is not considered that there is a considerable level of unmet need as suggested in the Design & Access statement submitted. It should be noted however that, as with more general housing need, the GTAA 2019 update considers provision and need across Shropshire and not that specific to the Market Drayton area.
- 6.1.17 Whilst the GTAA 2019 update concludes that there is no current requirement for site allocations or evidence of the need for the identification of sites for longer term provision, it does recommend that the Council should continue to consider planning applications for appropriate small sites to address any arising needs of Gypsy and Traveller families, over the Plan period. This is in line with the Government aspiration to promote more private traveller site provision as set out in PPTS. It is considered that this proposal for a

small, private family site would therefore be compliant with the findings of the GTAA and the aspiration of the PPTS in this regard.

*Personal circumstances & availability of suitable alternative sites*

- 6.1.18 As highlighted in paragraph 6.1.7 of this report, there are several criteria in paragraph 24 of the PPTS which amongst other matters should be considered when planning applications for gypsy and traveller sites. One of these criteria relate to personal circumstances. In addition to paragraph 24 of the PPTS, paragraph 13 states LPAs should ensure they promote a settled base and ensuring that children can attend school on a regular basis with the need for consideration of the relevance of the best interests of the child referenced in planning practice guidance. These matters, together with availability of suitable pitches and other material considerations, all need to be taken into consideration in the planning balance and the determination of the planning application.
- 6.1.19 It is the case that the applicant and his family currently occupy a private site, however, this consists of 8 pitches belonging to different families and the Gypsy Liaison Officer has highlighted overcrowding at the site, the negative consequences of which would be addressed if the applicant and his family had access to their own site. Furthermore, the Gypsy Liaison Officer has confirmed that family reside at the private site only on a temporary basis; the pitches at the site have personal permissions and therefore when the named occupiers return from travelling, the family would be expected to move. The applicant has submitted information including confidential details to the planning officer about the family's circumstances. The pitches would accommodate two children (2 years old and a recently born baby). The 2-year-old child is at nursery in Market Drayton. The mother of the applicant has medical conditions that require regular care by other family members.
- 6.1.20 Several objections refer to the absence of a local connection, however, there is no need to establish a local connection as part of this application. CS12 refers to the need for an applicant to demonstrate a strong local connection for small rural exception sites (under 5 pitches that are set aside solely as *affordable* gypsy and traveller sites), however, the application has not been submitted for consideration as an exception site. Moreover, the PPTS makes clear that LPAs must determine applications from any travellers and not just those with local connections. Nonetheless, the LPA accept that the family do have a strong connection to the rural area near Market Drayton with the applicant and his son having an established roofing contractor business which operates in the local area.
- 6.1.21 The implications of the Human Rights Act, Equality Act 2010 and the best interests of the child, are also significant considerations in determination of an application.
- 6.1.22 Overall, it is considered that the proposed site would bring forward improved living conditions for the family while ensuring they have a permanent, settled base in an area in which they work and are long established. Furthermore, approving this pitch would accord with paragraph 24 (d) of the PPTS which has the aim of providing more private Gypsy and Traveller sites regardless of the need and supply situation.
- 6.1.23 The report shall now review the status of the applicants and then move to a review of other planning considerations before undertaking a balancing exercise to consider whether any harm of allowing the proposal that can be identified would outweigh the compliance of the application with local and national planning policy as has been established.

## **6.2 Gypsy and Traveller Status**

6.2.1 It is necessary to the acceptability of the development that the site would be occupied by Gypsies and Travellers. Information with regards to the gypsy status of the applicant has been provided within the submitted Design and Access Statement and it is accepted that the applicant and his family currently reside at a gypsy and traveller pitch at The Paddocks, Warrant Road, Stoke-on Tern. The Gypsy Liaison Officer has confirmed that the information pertaining to the applicant's status is accurate and that they continue to meet the definition of Gypsies and Travellers. Therefore, if permission was granted, a condition would be imposed to ensure the residential element is occupied by Gypsies and Travellers; the condition would be worded so that it would not exclude those who have ceased travelling permanently in line with the recent Court of Appeal judgement in Lisa Smith v SSLUHC [2022] EWCA Civ 1391 which held that the exclusion of Gypsy and Travellers who have ceased to travel permanently is discriminatory.

## **6.3 Impact on the character and appearance of the area**

6.3.1 The application site is a triangular piece of land between the A529 which intersects Woodseaves, and Haywood Lane. The interior of the site is screened by established hedgerows and trees on all sides though this screening is lessened over the winter months when the vegetation is no longer in leaf. Further screening is provided by the three large trees set in open space on land adjacent to the north which is outside of the application site. The combination of this open space with the proposed pony paddock within the application site's red line would create a green buffer when the site was viewed from the corner of the junction between the A529 and Haywood Lane. It is accepted that the introduction of two static caravans, two touring caravans and two amenity blocks along with hardstanding, new access gates and associated paraphernalia would impact on the rural nature of the site and given the proximity to the highway, there would be some visibility notwithstanding the screening referenced which would result in limited local visual and landscape harms.

6.3.2 However, though the site is in the countryside for planning policy purposes, the site does not project out into exposed, open agricultural fields beyond the built form of Woodseaves which is set either side of the A529 and extends to the south-west along Syndall Lane and to the north-west where barns connected to Woodseaves Grange farmhouse have been converted. The development would instead be set centrally within this built form and accordingly would not have harmful wider visual and landscape impacts, and this would be reinforced by the small nature of the proposal and the low, single storey heights of the caravans and the proposed amenity blocks.

6.3.4 Though harm has been identified, it would be very limited in scale. As stated, the number of caravans would be small reflecting that what is proposed is a small, single-family site while the scale of amenity block and number of pitches has been reduced significantly during the application. If approval was granted, a number of conditions would be imposed to lessen visual impacts further and these would include a materials condition to ensure the LPA can control the exterior appearance of the amenity blocks and caravans and a hard and soft landscaping condition to ensure existing vegetation is retained and new planting is provided to infill gaps along boundaries. A condition would be added preventing commercial activities taking place on the site, including the storage of materials, machinery, equipment, tools, and associated goods which would jar with the non-commercial character of Woodseaves. Permitted Developments rights relating to fences, walls and gates would also be removed.

## **6.4 Residential Amenity**

6.4.1 The small-scale of the caravans and amenity blocks, and the separation distance proposed between them and the nearest neighbouring properties would be considered sufficient to avoid undue harm to residential amenity. The separation distances that would apply would not be unusual in the context of Woodsaves. Conditions can be imposed to control lighting on site and to prevent commercial activities. Subject to these conditions, the development would be compliant with Policy CS6 of the Core Strategy regarding residential amenity impacts.

## **6.5 Highways**

6.5.1 The highways access in terms of safety and visibility, together with the parking and turning layout within the site boundary would be acceptable subject to the conditions recommended by the Council's Highways Officer. A further condition could be added so that a pedestrian link to the footway provision at the junction of Haywood Lane and the A529 is provided before occupation of the site. The pedestrian link would aid safety as pedestrians would not have to walk onto Heywood Lane to move between the site and the rest of Woodseaves. This link would further improve the integration of the development with the rest of the settlement.

## **6.6 Ecological impacts**

6.6.1 The SC Ecology team have raised no objection following the submission of an Ecological Assessment carried out by Camlad Ecology (revised August 2023). It is considered that the site would be negligible for bats and limited ground works would not carry any significant risk to great crested newts and so no further mitigation, over and above the recommendations of the assessment, would be necessary. Conditions can be imposed to ensure:

- works are carried out in accordance with the submitted method statement
- the submission of details of a lightning scheme
- 2 bat boxes and a total of 6 artificial nest including suitable for swifts

6.6.2 Subject to these conditions, the application would comply with Policies CS6, CS17 and MD12 of the Local Plan.

## **6.7 Drainage**

6.7.1 The Council's SUDS team have assessed the site to be one at low risk of flooding and no concerns raised relating to either foul or surface water drainage. A pre-commencement condition can be added so that notwithstanding the details submitted, a scheme of surface and foul water drainage shall first be submitted to and approved in writing by the Local Planning Authority.

## **6.8 Planning Balance**

6.8.1 Application 22/05367/FUL for a single open market residential dwelling was assessed against general residential housing policy and given the site is in a countryside location where access to local services and facilities would be dependent on the private car, that application was considered contrary in principle to the relevant policies of the Core Strategy and SAMDEV and was subsequently refused.

6.8.2 In the case of the current application and unlike 22/05367/FUL, policy CS12 which specifically relates to gypsy and traveller site provision applies. CS12 only requires that gypsy and traveller sites are 'close to' settlements and are reasonably accessible to services and facilities. This report has established that the site is indeed close to settlements such as Market Drayton, Hinstock and Cheswardine. It is in a rural area and

so most trips to and from the site would be by car, however, services needed on a day-to-day basis, including schools, health facilities, public transport which provide links to towns further afield, are at local settlements within short driving distances. Furthermore, reliance on car travel would not be unusual given that the occupiers as Gypsies or Travellers and would have a nomadic habit of life. Bearing in mind the expectations of national and local policy, the difficulty in finding Gypsy and Traveller sites in villages and towns and the recent Coton appeal, the site is assessed to provide reasonable access to services and facilities.

- 6.8.3 The LPA accept that the needs of the family which includes 2 young children would be best served by a permanent, settled base. In determining the application, the best interest of the child is a primary consideration in all actions by public authorities concerning children. The family may be required to leave their current, overcrowded site as they are not the named, permanent occupiers and as such there would be the prospect that the family would have to lead a roadside existence which could impact on access to medical or other services that they may need.
- 6.8.4 It should again be highlighted the overarching support that the PPTS gives to new private gypsy and traveller provision which further weighs in favour of the application.
- 6.8.5 Weighed against the above is the very limited visual and landscape harm that has been identified, however, it is the case that the site's compliance with national and local gypsy and traveller policies in relation to accessibility to local settlements and the circumstances of the family would outweigh this harm to justify approval.

## **7.0 CONCLUSION**

- 7.1 Though some very limited visual and landscape harm has been identified, the site is in a suitable location for a gypsy and traveller pitch due to the good level of accessibility occupiers would enjoy when travelling to and from local settlements; the development would be in a suitable location having regard to CS policies CS5 and CS12, the PPTS, the NPPF and accessibility. It is furthermore an overarching aim of the Council in accordance with the Core Strategy, the GTAA and the PPTS to support the aim of providing more private Gypsy and Traveller sites regardless of the need and supply situation. Furthermore, personal circumstances also add further weight in favour of approval as it would enable the family to move away from an overcrowded site to a permanent, settled residential base in the local area. In conclusion, the use of the site for 2x gypsy and traveller pitches is recommended for approval subject to the conditions as set out in appendix 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, 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.

The Equality Act 2010 says public authorities must comply with the public sector equality duty (PSED). The PSED requires public bodies to have due regard to the need to eliminate discrimination, advance equality of opportunity and foster good relations between different people when carrying out their activities. It is considered that this report has had due regard to the need to advance equality of opportunity between Gypsies and Travellers on the one hand, and non-Gypsies and Travellers on the other.

## 9.0 Financial Implications

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

## 10. Background

### Relevant Planning Policies

Central Government Guidance:

West Midlands Regional Spatial Strategy Policies:

Core Strategy and Saved Policies:

CS1 - Strategic Approach

CS5 - Countryside and Greenbelt

CS6 - Sustainable Design and Development Principles

CS12 - Gypsies and Traveller Provision

CS17 - Environmental Networks

MD1 - Scale and Distribution of Development

MD2 - Sustainable Design

MD7A - Managing Housing Development in the MD7A - Managing Housing Development in the Countryside

MD12 - Natural Environment

MD13 - Historic Environment

National Planning Policy Framework

PPTS - Planning Policy for Traveller Sites

SPD Type and Affordability of Housing

RELEVANT PLANNING HISTORY:

22/05367/FUL Erection of detached three-bedroom bungalow incorporating a detached double garage and improvements to vehicle access REFUSE 27th February 2023

23/02652/FUL Change of Use of land to Gypsy / Traveller site for 2 family pitches to include the erection of amenity buildings, improvement of access and installation of Bio-Disc sewage treatment plant PDE

11. Additional Information

View details online: <http://pa.shropshire.gov.uk/online-applications/applicationDetails.do?activeTab=summary&keyVal=RWIIF5TDHW800>

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 Chris Schofield
Local Member 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 shall take place until a scheme of surface and foul water drainage has been submitted to and approved in writing by the Local Planning Authority. The approved scheme shall be fully implemented before the development is occupied/brought into use (whichever is the sooner).

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

4. No development shall commence until details of a footway connection between the site and junction of Haywood Lane and the A529 shall be submitted to and approved in writing by the Local Planning Authority; the footway connection shall be fully implemented prior to the development hereby permitted being first occupied.

Reason: To ensure the pedestrian connection between the site and the existing footway provision at the Haywood Lane/A529 junction and in the interests of pedestrian safety.

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

Reason: In the interests of highway safety and local amenity.

**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 bat and bird boxes shall be submitted to and approved in writing by the Local Planning Authority.

The following boxes shall be erected on the site:

- A minimum of 2 external woodcrete bat boxes or integrated bat bricks, suitable for nursery or summer roosting for small crevice dwelling bat species.
- A minimum of 3 artificial nests, of either integrated brick design or external box design, suitable for starlings (42mm hole, starling specific), sparrows (32mm hole, terrace design), house martins (house martin nesting cups), swallows (swallow nesting cups) and/or small birds (32mm hole, standard design).
- A minimum of 3 artificial nests, of integrated brick design, suitable for swifts (swift bricks).

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.

7. Within three months of this permission, a lighting plan shall be submitted to and approved in writing by the local planning authority. The lighting plan shall demonstrate that the proposed lighting will not impact upon ecological networks and/or sensitive features, e.g. bat and bird boxes, trees, and hedgerows. The submitted scheme shall be designed to take into account the advice on lighting set out in the Bat Conservation Trust's Guidance Note 08/18 Bats and artificial lighting in the UK. Only external lighting in accordance with approved details shall be provided on the site

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

8. Prior to the development hereby permitted being first occupied, the access, parking and hardstanding vehicle manoeuvring areas shall be laid out and constructed fully in accordance with the approved plans; the parking and vehicle manoeuvring space shall thereafter be retained solely for the benefit of its intended use.

Reason: In the interests of providing adequate onsite vehicle parking and manoeuvring space within the site curtilage.

9. No construction works to the amenity blocks hereby permitted or occupation of the site shall commence until full details of the external materials to be used for the buildings and mobile caravans 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.

10. Notwithstanding the details shown on drawing Proposed Block Plan 71380:1001 Rev B, no occupation shall commence until a hard and soft landscape scheme has been submitted to and approved in writing by the Local Planning Authority. The scheme shall include the following details:

- (a) size, species and positions for new trees and plants; new planting should be shown to infill gaps and enhance the existing boundary hedgerow
- (b) boundary treatments including gates and fences,
- (c) surfacing materials (including driveway, parking area, patios) and

(d) any retained planting.

(e) a detailed programme of implementation

The hedge and tree planting shall be carried out in accordance with the approved details within the first planting season. Any trees or plants indicated on the approved scheme which, within a period of five years from the date of planting, die, are removed or become seriously damaged or diseased shall be replaced during the next planting season either with the same tree/plant as has previously been approved, or with other trees or plants of a species and size that have first been approved in writing by the Local Planning Authority. The development shall thereafter be carried out in accordance with all of the approved details.

Reason: In the interests of the visual amenities of the area

11. Prior to the development hereby permitted being first occupied visibility splays shall be provided at the access onto Haywood Lane of 2.4 x 43 metres in both directions, all growths/obstructions in advance of the splayed areas shall be lowered to and thereafter maintained at a height not exceeding 0.6 metres above the level of the adjoining highway carriageway.

Reason: In the interests of highway safety.

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

12. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 2015 (or any order revoking or re-enacting that order with or without modification), the following development shall not be undertaken without express planning permission first being obtained from the Local Planning Authority:-

- the erection of fences, gates or walls or other means of enclosure

Reason: To enable the Local Planning Authority to control the development and to safeguard the character and appearance of the development.

13. There shall be no more than 2 pitches on the site and no more than 4 caravans, as defined in the Caravan Sites and Control of Development Act 1960 and the Caravan Act 1968, shall be stationed at any time, of which only 2 caravan shall be a mobile home/static caravan. The mobile homes/static caravans shall be positioned in accordance with the details as shown on the approved plans. Any touring caravan shall only be positioned on the area as shown on the approved plans and nowhere else on the site.

Reason: To safeguard the amenities of the locality

14. The development hereby approved shall not be occupied by any persons other than Gypsies and Travellers, defined as persons of nomadic habit of life whatever their race or origin, including such persons who on grounds only of their own or their family's or dependants' educational or health needs or old age have ceased to travel temporarily or permanently, but excluding members of an organised group of travelling showpeople or circus people travelling together as such.

Reason: This permission is only granted in view of the exceptional circumstances of the gypsy community within the Local Planning Authority's area at the date of the permission hereby granted.

15. All works to the site shall occur strictly in accordance with the mitigation and enhancement measures regarding great crested newts as provided in Annex 1 of the Ecological Assessment (Camlad Ecology, August 2023).

Reason: To ensure the protection of and enhancements for Great Crested Newts, which are European Protected Species.

16. No vehicle over 3.5 tonnes shall be stationed, parked or stored on this site.

Reason: To safeguard the amenities of the locality.

17. No commercial activities shall take place on the site, including the storage of materials, machinery, equipment, tools and associated goods. No burning of materials or waste shall take place on the site.

Reason: To protect the residential and visual amenities of the area.

18. The occupation of the site hereby permitted shall be carried on only by the following and their resident dependants: Mr Henry Toogood, Mr Michael Toogood, Mrs Rosanna Toogood and Mary Anne Toogood.

Reason: To ensure that the site is only occupied by the Applicant/s and their named dependants

19. When the land ceases to be occupied by those named in condition no.18, the use hereby permitted shall cease and all caravans, structures, materials and equipment brought onto the land in connection with the use shall be removed and the land restored to its condition before the development was carried out within 6 calendar months of that date.

Reason: To ensure that the site is only occupied by the Applicant/s and their named dependants and in the interests of the visual amenities of the area.

### **Informatives**

#### 1. 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 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. Only if there are no active nests present should work be allowed to commence.

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

General site informative for wildlife protection

Widespread reptiles (Adder, Slow Worm, Common Lizard and Grass Snake) are protected under the 1981 Wildlife and Countryside Act (as amended) from killing, injury and trade and are listed as Species of Principle Importance under Section 41 of the 2016 NERC Act. 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 2006 Natural Environment and Rural Communities Act. Reasonable precautions should be taken during works to ensure that these species are not harmed.

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

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

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

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

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

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

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

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

If a hibernating hedgehog is found on the site, it should be covered over with a cardboard box and advice sought from an appropriately qualified and experienced ecologist or the British Hedgehog

Preservation Society (01584 890 801).

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

#### Landscaping informative

Where it is intended to create semi-natural habitats (e.g. hedgerow/tree/shrub/wildflower planting), all species used in the planting proposal should be locally native species of local provenance (Shropshire or surrounding counties). This will conserve and enhance biodiversity by protecting the local floristic gene pool and preventing the spread of non-native species.

2. A sustainable drainage scheme for the disposal of surface water from the development should be designed and constructed in accordance with the Council's SUDS Handbook which is available in the Related documents section on the council's website at: <https://shropshire.gov.uk/drainage-and-flooding/development-responsibility-and-maintenance/sustainable-drainage-systems-handbook/>

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

Preference should be given to drainage measures which allow rainwater to soakaway naturally. Connection of new surface water drainage systems to existing drains / sewers should only be undertaken as a last resort, if infiltration techniques are not achievable.

Any proposed drainage system should follow the drainage hierarchy, with preference given to the use of soakaways. Soakaways should be designed in accordance with BRE Digest 365. Connection of new surface water drainage systems to existing drains / sewers should only be undertaken as a last resort, if it can be demonstrated that infiltration techniques are not achievable.

Where a positive drainage connection is proposed, the rate of discharge from the site should be restricted to an appropriate rate as set out in the SuDS Handbook.

Shropshire Council will not permit new connections to the Highway Drainage network.

Where a proposed surface water attenuation feature serves multiple properties, this feature should not be constructed within a private property boundary and be located in areas of public open space or shared access to allow future maintenance.

If non permeable surfacing is used on the driveways and parking areas which slope towards the highway, a drainage system to intercept water prior to flowing on to the public highway must be installed.

If main foul sewer is not available for connection, British Water 'Flows and Loads: 4' should be used to determine the Population Equivalent (PE) for the proposed development and the sizing of the septic tank or package treatment plant and drainage fields should be designed to cater for the correct number of persons and in accordance with the Building Regulations H2.

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

This planning permission does not authorise the applicant to:

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

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

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

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

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

**Mud on highway**

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

**No drainage to discharge to highway**

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

**Waste Collection**

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

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

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



Committee and Date

Northern Planning Committee

05 March 2024

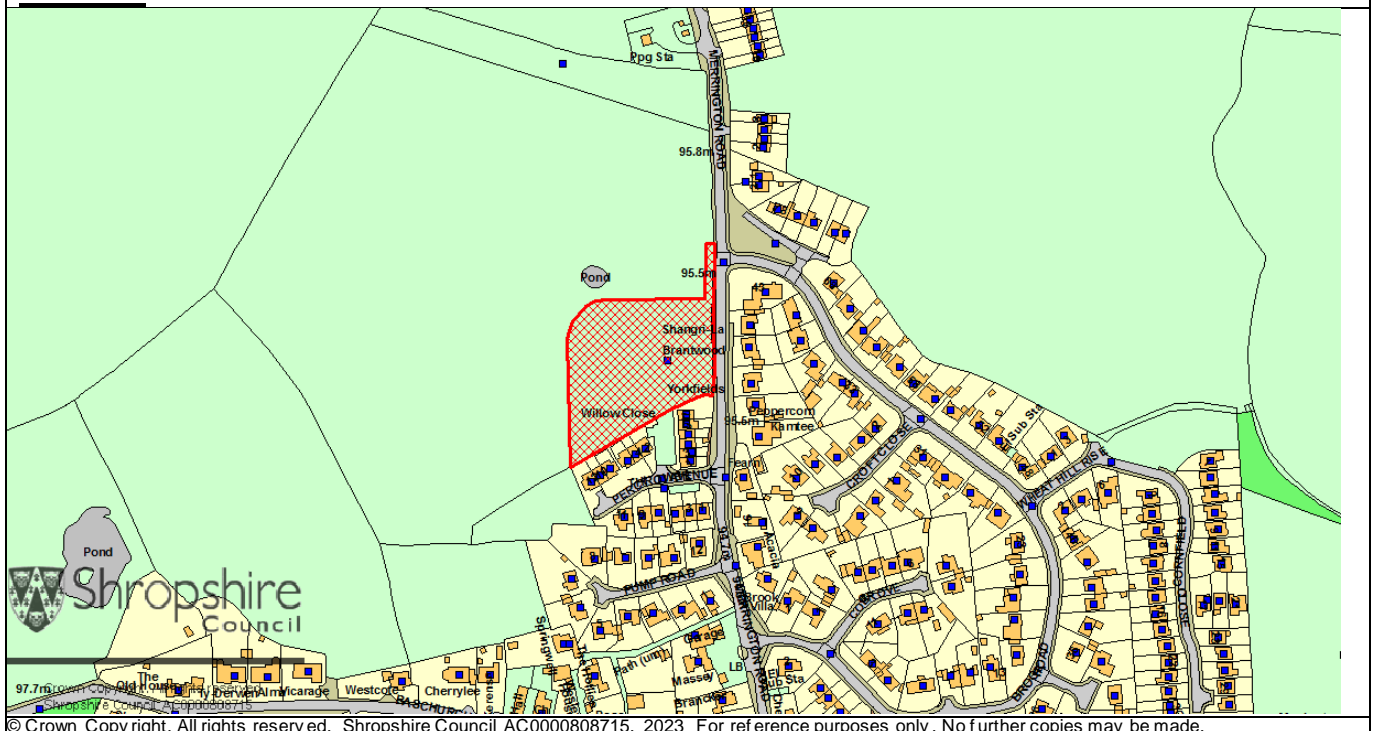
## Development Management Report

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

### Summary of Application

<b>Application Number:</b> 23/02934/FUL	<b>Parish:</b>	Bomere Heath
<b>Proposal:</b> Rural exception site comprising the erection of 19 affordable dwellings, vehicular, pedestrian and cycles access from Merrington Road, open space, sustainable urban drainage system, landscaping and associated works		
<b>Site Address:</b> Proposed Affordable Housing Exception Site West Of Merrington Road Bomere Heath Shrewsbury Shropshire		
<b>Applicant:</b> J Harper & Sons Leominster		
<b>Case Officer:</b> Jane Raymond	<b>email:</b> jane.raymond@shropshire.gov.uk	

**Grid Ref:** 347341 - 320027



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**Recommendation:** Approval subject to the conditions as set out in appendix one attached to this report and any amendments to these conditions as considered necessary by the Head of Service and the signing of a S106 agreement to secure the affordable housing in perpetuity, and confirmation of receipt of a counter signed Impact Assessment and Conservation Payment Certificate (IACPC), that confirms acceptance into Natural England's District Level Licencing Scheme

## REPORT

### 1.0 THE PROPOSAL

- 1.1 This application is for the erection of 19 affordable dwellings as a rural exception site. It includes associated vehicular and pedestrian access and the provision of open space, a sustainable urban drainage system and landscaping of the site.
- 1.2 The proposal was originally for 20 dwellings and amendments have been received that include a reduction to 19, setting back the house on plot 15 further from the boundary to the south, an increase in open space provision and retention of the permissive access to the Public Rights of Way (PROW) in the adjacent field.

### 2.0 SITE LOCATION/DESCRIPTION

- 2.1 The site is the south-east corner of a larger field that is situated north of properties in Percy Thrower Avenue in the village of Bomere Heath.

### 3.0 REASON FOR COMMITTEE DETERMINATION OF APPLICATION

- 3.1 The Parish Council have raised material considerations, and due to matters raised and that the proposal represents a major application, as an exception site, the Area Planning Manager in consultation with the Committee Chairman and Vice Chairman consider that the application should be determined by Committee.

### 4.0 Community Representations

- 4.1 **Consultee Comment** (Latest comments only. All previous comments can be viewed in full on the file)

- 4.1.1 SC Affordable Housing (23.08.2023): *We currently have 19 households on the housing register waiting for properties in Bomere Heath. The size and tenure of the proposed affordable homes are acceptable and will meet some of the identified need.*

The affordable housing team have also answered queries raised directly by the Parish Council (PC) by email and has provided the following response in November 2023:



15.11.2023: *The Homepoint data is a live data set that changes sometimes month by month, so it's not unusual for numbers to go up or down between comments on the planning system. The current figures taken from 1st November 23, are similar to those I gave the case officer in August.*

*When we are looking at Housing need we generally look at the parish, so in this case Pimhill and there are currently 31 households wanting/needing an affordable home in the parish. (there were 34 in August) If this was an open market site with no local connections attached then this is the figure we would be using.*

*However, the Merrington Road site is an exception site so we limit the housing need to those that have at least 2 local connections to the Settlement of Bomere Heath AND have put Bomere Heath as their first choice of location for their home.*

*As of the 1st Nov 23 there are still 19 households on the housing register that meet that criteria. This is the same number as in August but the make up of the need has altered slightly. There are now 9 requiring 1 beds, 4 x 2 beds, 3 x 3 beds and 3 x 4 beds. So the number of 3 beds required has gone down and more 1 and 4 beds are now needed. As this alters (due to people being reassessed or people leaving the register or joining it) we can't exactly meet the housing mix as it will no doubt alter again if/when the properties obtain planning and are then built. The mix of 1,2 and 3 beds for rent are a suitable mix to meet the identified need and our Housing Associations state that 2 bed shared ownership properties are in demand.*

17.11.2023: *If a person is only entitled to a 1 bed property they can only bid on a 1 bed property. We never meet the exact make up of housing need in regards to size of properties as it is forever changing and although our main aim is to meet the identified housing need, we also need to look at ensuring the development provides a sustainable community. Allowing too many 1 beds means there is more of a transient population as on the whole 1 beds have a higher turnover rate than any other house size (due to people getting a partner, having children or unfortunately with the older residents passing away) We also know from experience that there is hidden need (those that have not registered on home point) and looking at the bid data for Bomere Heath, 2 bed properties are the size of dwellings that obtain the most bids when they come up for rent. Unfortunately the waiting time for 1,2 and 3 bed properties in Bomere Heath is over 12 months for all property sizes, showing that there is demand for all sizes of properties.*

- 4.1.2 SC Highways (19.02.2024): *Highways consider that the proposed development is acceptable and would not cause an adverse impact upon the local highway network. It is considered also that the estate road layout, alignment and footway provision is acceptable and meets the Council's adoption standards should the estate road be offered for adoption. Parking provision to serve the residential units is considered adequate to meet the needs of on-site parking demand.*

*Highways therefore raise no objection to the granting of consent subject to the following Conditions being imposed:*

- 4.1.3 SC Waste Management (04.08.2023): *It is vital new homes have adequate storage space to contain wastes for a fortnightly collection (including separate storage space for compostable and source segregated recyclable material). An option for residents to have wheelie bins for recycling has been added to the service in 2022, therefore space for three wheelie bins per property could be required.*

*Also crucial is that they have regard for the large vehicles utilised for collecting waste and that the highway specification is suitable to facilitate the safe and efficient collection of waste. Any access roads, bridges or ramps need to be capable of supporting our larger vehicles which have a gross weight (i.e. vehicle plus load) of 32 tonnes and minimum single axle loading of 11 tonnes.*

*I would recommend that the developer look at the guidance that waste management have produced, which gives examples of best practice. This can be viewed here: <https://www.shropshire.gov.uk/media/25994/shropshire-refuse-and-recycling-planning-guidance2022.pdf>*

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

*Particular concern is given to any plots which are on private drives that the vehicles would not access (plots 12-17). Bin collection points would need to be identified and residents advised when they move in/purchase.*

*Residents would also need to be made aware that they would be collection points only and not storage points where bins are left permanently.*

- 4.1.4 SC Drainage (15.02.2024): *The drainage proposals are acceptable.*

- 4.1.5 SC Regulatory Services (20.02.2024): *Further to comments by Environmental Protection dated 22nd August 2023, the following report has now been submitted; Georisk Management; Ground Investigation; Land to the West of Merrington Road, Bomere Heath, Shrewsbury, Shropshire; Report No. 23061/1, Dated June 2023; Prepared for J. Harper & Sons (Leominster) Ltd, FINAL.*

*The previous report 'Draft' dated June 2023, reported that monitoring has been undertaken on 3 occasions. "No detectable levels of methane have been recorded, but carbon dioxide has been recorded, in excess of 5%vv on 2 occasions". This could potentially classify the site as a Characteristic Situation 2, meaning gas protection to protect new buildings is required.*

*Georisk Management were suggesting that the site could be classified as Characteristic Situation 1 (i.e., no gas protection is required), but they do state that*

*this initial conclusion is subject to review on completion of the full soil-gas monitoring programme.*

*This 'Final' Report has now been issued, based on gas monitoring on 4 occasions (12/05/2023; 26/05/2023; 13/06/2023 and 22nd June 2023) only.*

*In their preliminary risk assessment, Georisk Management have identified a 'low risk' in respect of soil-gases entering buildings via services/foundations (Table 3, Section 7). Section 9.6.1 confirms that based on ground conditions encountered, the preliminary conceptual model is largely representative of the actual site conditions in relation to the development.*

*The suggested minimum monitoring period and frequency (CIRIA C665) for a high sensitivity development (residential with gardens), with a low gas generation source is 9 readings over a 6-month period. Even if the gas generation source was very low, the minimum monitoring requirement is 6 readings over a 3-month period. In addition, at least two sets of readings must be at low and falling atmospheric pressure. These minimum requirements have not been met.*

*Methane has not been recorded, but carbon dioxide exceeds the maximum recommended concentration of 5%vv on 3 different dates and from 3 different boreholes.*

*Georisk Management have used the semi-quantitative procedure as recommended in CIRIA C665 to assess the risks and concluded that the results of the soil gas monitoring are indicative of a CS1 classification and gas protection is not considered necessary. However, again the report states (10.3.5) that this initial conclusion is subject to review on completion of the full soil gas monitoring programme.*

*Environmental Protection cannot agree with this conclusion having regard to the required minimum monitoring period, as only four sets of readings have been carried out over a 6-week period.*

*Environmental Protection does not disagree with the conclusion by Georisk Management that based on, 'all test results for the potential contaminants of concern are below the relevant assessment criteria (S4UL/C4SL/SSV), that no remedial action in respect of risk to human health is considered necessary for the proposed development at the site'.*

*In the absence of any specifically worded conditions in respect of a gas risk assessment, Environmental Protection recommends the Council's pre-commencement conditions in respect of contaminated land are included within the Decision, if planning permission is granted. This requirement is only in respect of concluding the ground gas monitoring/risk assessment.*

- 4.1.6 SC Conservation (25.08.2023): *We have no comments on this application relevant to historic environment matters.*

- 4.1.7 SC Trees (25.08.2023): *There are a number of trees on this site and an Arboricultural Impact Assessment has been submitted with the application to demonstrate the impact of the development on existing trees, hedges and shrubs and to justify and mitigate any losses that may occur.*

*The AIA has identified 10 individual trees, 1 groups of trees and 2 hedgerow which have been assessed in accordance with BS 5837 (2012) and includes a categorisation of the trees based on their current and potential public amenity value. This categorisation forms the basis for how much weight should be put on the loss of a particular tree and helps to inform the site layout and design process. I have reviewed the categories allocated to the trees and would agree that these are appropriate.*

*The proposed development would result in the loss of a section of the roadside hedge to provide access with all other trees retained. The loss of the hedgerow is mitigated through a planting scheme provided and to be undertaken as part of the development.*

*The Arboricultural Impact of the proposal is low and the new planting would result in betterment in the longer term. No objection is raised to the application providing the tree protection measures detailed in the AIA are implemented in full. The following condition is recommended:*

- 4.1.8 SC Ecology (20.02.2024): *Conditions and informatives have been recommended to ensure the protection of wildlife and to provide ecological enhancements under NPPF, MD12 and CS17.*

*I have reviewed the information and plans submitted in association with the application and I am happy with the survey work carried out.*

*I have reviewed the Hard and Soft Landscape Schedule (BG23.164-BRGR-ZZ-ZZ-DR-L-00003) and I am satisfied with the proposed plans. It is recommended that hedgehog friendly fencing is included in the landscape scheme.*

*The Preliminary Ecological Appraisal carried out by Brindle & Green (June 2023) determined a pond within 20m of the red line boundary to have the potential to support great crested newts. Further surveys were recommended or that the applicant applies into the District Level Licensing scheme by Natural England. Great crested newts are a European protected species. District level licensing is an alternative approach to mitigation licensing for planning applications to develop sites which could affect great crested newts.*

*District level licensing aims to increase the number of great crested newts by providing new or better habitats in targeted areas to benefit their wider population.*

*Planning applications using this scheme will need to issue the countersigned*

*impact assessment and conservation payment certificate (IACPC). This confirms that the application is suitable for district level licensing and that the favourable conservation status (FCS) test in the Habitats Regulations 2019 will compensate for any impacts on great crested newts by a conservation payment.*

*The District Level Licensing scheme will be used as part of the proposed planning permission, under District Level Licensing Enquiry number DLL-ENQ-SHRP-00057.*

*Suitable habitats have been identified for breeding birds. Works should be timed in order to avoid the nesting bird species, to negate any potential negative impact to breeding birds.*

*Mitigation measures have been recommended with respect to reptiles and small terrestrial mammals, although no evidence of these species was recorded. The recommended mitigation measures should be strictly adhered to.*

*Any external lighting to be installed on the building should be kept to a low level to allow wildlife to continue to forage and commute around the surrounding area.*

*SC ecology require biodiversity net gains at the site in accordance with the NPPF and CS17. The installation of bat boxes/integrated bat tubes and bird boxes will enhance the site for wildlife by providing additional roosting habitat.*

- 4.1.9 MOD Safeguarding (07.09.2023): *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 is for the erection of 20 affordable dwellings comprising of a mixture of single and two storey buildings with a maximum height of approx. 9.5m. The plans indicate the housing will have solar panels on the roof and the proposed site will also include open space, landscaping, and associated works. The application site occupies the statutory safeguarding zones surrounding RAF Shawbury. In particular, the aerodrome height, technical and birdstrike safeguarding zones surrounding the aerodrome and is approx. 7.8km from the centre of the airfield.*

*After reviewing the application documents, I can confirm the MOD has no safeguarding objections to this proposal.*

*The MOD advises that the proposed development may be exposed to noise from aircraft activities from RAF Shawbury, which some residents, when living on the development, may find disturbing.*

*My colleagues in the DIO Town Planning/Land Management Services section may*

*be submitting separate representation on noise issues in respect of this application.*

*The MOD must emphasise that the advice provided within this letter is in response to the data and information detailed in the developer's document titled "Proposed Elevations Plots 1-17", "Planning Statement", "Proposed Site Layout", "Landscape Management Plan", "Drainage Strategy" and "Site Location Plan" dated June 2023.*

*Any variation of the parameters (which include the location, dimensions, form, and finishing materials) detailed may significantly alter how the development relates to MOD safeguarding requirements and cause adverse impacts to safeguarded defence assets or capabilities. In the event that any amendment, whether considered material or not by the determining authority, is submitted for approval, the MOD should be consulted and provided with adequate time to carry out assessments and provide a formal response.*

- 4.1.10 MOD (Town Planning Estates) (08.09.2023): *The application site is located within an area affected by noise generated by military aircraft and military activity from MOD establishments at both RAF Shawbury and Nesscliff Training Area.*

*Paragraph 187 of the National Planning Policy Framework (2021) states that "Existing businesses and facilities should not have unreasonable restrictions placed on them as a result of development after they were permitted" before going on to require the applicant or agent of change to "provide suitable mitigation before the development has been completed."*

*No Noise Impact Assessment has been submitted with this application. It is therefore considered that insufficient information has been submitted to adequately assess the levels of noise currently experienced at this site due to military aviation. Given the application site's location, it is strongly recommended that a Noise Impact Assessment is produced to support this application. Such an assessment should be carried out by an appropriately qualified individual (Member of the Institute of Acoustics) and be based on a noise survey carried out over a minimum period of 0700 Monday to 2300 on the following Friday.*

*If Shropshire Council is minded to approve the application, a condition should be applied to secure mitigation measures to achieve daytime noise levels of 35dB LAeq (16hrs) within living rooms between 0700 and 2300 hours, and night-time levels of 30dB LAeq (8 hrs) within bedrooms between 2300 and 0700 hours. In the event of permission being granted it is also recommended that an informative is added that states:*

*"The application site is located close to a military airfield and a military training area. Future occupants should be made aware that military aircraft may be seen and heard operating in the area and that aircraft may overfly the site. The mitigation of noise in external areas may not be possible. Future occupants should also be made aware that aircraft types, flight paths and ground based activity can vary over time and this may cause disturbance."*

*The comments provided within this letter are based only on the location of the site in an area subject to the impacts of military aviation and military activity. No other sources of noise, disturbance or vibration have been considered in this response.*

## **4.2 Public Comments**

### **4.2.1 Bomere Heath PC (Object):** Have provided an 8 page response to the proposal as first submitted with the following conclusion:

*The Parish Council is concerned that approval of this application could open floodgates to the North of the village for exception & affordability sites. Pre-app noted a need for 16 houses, this doesn't take into consideration the 6 proposed at the south, the other 3 that should be provided, and the developer has rounded up to 20 to meet future demand. The scheme should really be based on current needs (16nr) and factor in the other affordable houses already anticipated.*

*The preference would be to reject the application, or at least revise with a different layout that has less impact on community.*

*The Parish Council would have discussed the potential for a patch of land for a Ball Park to be considered which would have added benefit to the younger generation.*

*And finally, we would put emphasise that the applicant be implored that they interact with the Parish Council and the community to discuss revisions before a re-submission.*

*Adequate and open collaboration has not taken place as part of this application and the community has had no outlet to question the applicants or make any positive recommendations that may have facilitated a less fractious application, we feel this is why the level of negative responses have been received.*

*It would have been beneficial that as part of the Pre-App response that applicants be encouraged to undertake meaningful engagement with the community and Parish Council.*

A summary of the PC comments using the heading in their response is summarised below:

#### Parish Council Planning Decisions

- No Consultation with community prior to submission
- Exception sites should be as an exception but are presented in areas that go against the development plan for the Parish.
- Alternative and more suitable should be considered and explored.

### Quantity

- The proposal is for more affordable homes than the community require and should only be permitted to meet an identified need.
- There is a need for more 1 and 2 bed and less 3 bed.
- Clarity needed in the proportion of affordable/social rent and shared ownership.

### Layout & Density

- Too many dwellings, too compact, too close and cramped
- Too close to existing residents in Percy Thrower Drive
- Potential for expansion into the adjacent field due to the layout
- The internal layout of the houses is compact
- Loss off pedestrian access to field and PROW
- Questions the location of the parking for the bungalows
- Proximity of LAP, paths and trees to attenuation basin
- Too much close boarded fencing
- Questions what cycle parking will be provided
- Questions whether electric charging facilities will be provided for the visitors spaces for the public

### Parking

- Considers that a 2-bed house is designed for 4 persons, and it is feasible that each
- dwelling could have up to 4 cars.
- Requests that the number of three bedroom houses is reduced to help reduce vehicle movement and parking demand

### Site location



- Considers that the location could be reviewed to select an area that is more acceptable to the community.
- Whilst the applicant has offered a review of other potential locations noted in the pre-\_app the Parish Council feels that this should further be explored.

#### Local Amenities

- Recent development and proposed developments in the area have provided for the need for dwellings but not addressed the local infrastructure and the local amenities.
- The open space referred to in the applicant's statement is not all available to the public.
- The Ball Park is privately owned by the Primary School and is not available to public
- Potential for the provision of land for a Ball Park

#### Ecology

- GCN survey is required
- Queries how the Landscape management plan will be monitored during construction and monitored post construction.

#### Drainage

The Foul connection becomes the head of the run through the Village and impacting the entire village network. This is why the PC has always been more supportive of dwellings to the South and is concerned that package sites make no requirement to update the infrastructure.

4.2.2 67 letters of objection have been received to the proposal as first submitted summarised as follows:

Already had too much development including too many affordable homes

Doesn't want Bomere Heath to expand.

The site lies outside the village development boundary.

Infrastructure and amenities are insufficient to support additional housing (GPs and primary school at capacity, poor condition of roads, poor public transport, shop too small, no restaurant or post office, insufficient play areas and recreation facilities for young and older children).

Water and drainage system in Bomere, is struggling with low water pressure and the drainage system overflowing and problems with flooding and fields waterlogged.

There is no footway indicated along the hedgeline of Merrington Road and if residents are expected to utilise the footway on the east side of Merrington Road, this would mean crossing an extremely busy road where traffic is known to speed.

Poor public transport. The 576 bus route operates between Bomere Heath and the main settlements of Shrewsbury and Oswestry but does not take you to the nearest supermarkets and retail park in Harlescott and Battlefield.

Travelling to access services and facilities anywhere other than the town centre by bus is not a realistic proposition.

There is no pavement, and the site is too far from the facilities within the village so future occupiers will use their car and not walk to the shop and school for example, exacerbating existing congestion.

Traffic along Shrewsbury Road to the south will increase.

Increased traffic on a fast and dangerous road and lack of parking within the main part of the village by the shop and lack of parking for future residents.

Impact of heavy construction vehicles going through the village and damage to the roads that are already in a poor state of repair.

Questions who the homes will be for as not affordable to first time buyers and residents who want to remain in the village.

They should be provided as affordable to buy and not to rent.

It lacks the range of housing that the village needs.

Questions whether the applicant has demonstrated that there is an unmet need for affordable housing to rent and that there are vacant affordable homes in the village.

No further developments should be allowed to proceed until the existing unfinished development at The Wickets is finalised and questions whether the 60 additional houses including 12 affordable homes proposed for the south of the village have been taken into account.

More affordable homes if needed should be built on this site south of the village as having them all on one site in the north is unbalanced.

The only reason this application has been made is because it's easier to get

planning consent if you're building social housing.

Alternative sites have not been satisfactorily explored including the land at the end of Percy Trower Avenue.

If this development is approved no site bordering the village will be safe from development. The developers with the resources available to them would be able to make a very strong case for any development, using the Rural Exemption Provision.

The proposed houses will obstruct a 45-degree angle from the Kitchen and Bedroom windows of the properties in Percy Thrower Avenue .

Too close to existing housing and on higher ground resulting in loss of light, overlooking and loss of privacy, noise and disturbance and intrusion.

Loss of a view of the countryside and reduced property value.

Residents of Percy Thrower Avenue should all be compensated as the values of their homes and the living standards will be degraded if this goes ahead.

Contrary to Article 8 of the Human Rights Act 1998 due to impact on private family life and enjoyment of property.

Questions who and how the boundary hedge will be maintained.

The proposed plan intends to enhance an existing 30cm wild area along the south boundary with a new hedgerow and trees which will result in intrusion and block natural light to the existing properties and if not controlled will allow weeds to invade gardens as it currently does.

Impact on (or loss of) the existing permissive right of way to the field.

Concerns related to the safety of children who would potentially use the proposed attenuation basin adjacent to the play area for play.

Increased housing risks bringing more people to the village and an increase in antisocial behaviour.

Loss of a green field, flora, fauna and impact on natural habitats and wildlife such as owls, bats, red kites, herons, Canadian Geese, hedgehogs and great crested newts (GCN).

eDNA testing of the pond in the adjacent field for GCN should be carried out.

Several mature Oak trees were felled in this field last year (2022) and they were advised that they were unsafe but more likely in anticipation of this application.

Increase in light pollution and impact on rural dark skies.

The first site notice was not displayed in the correct place.

There has been no consultation with residents of Percy Throwers Avenue.

## 5.0 THE MAIN ISSUES

Principle of Development

Layout, scale, design, character and appearance

Residential amenity

Access and parking

Ecology and trees

Drainage

## 6.0 OFFICER APPRAISAL

### 6.1 Principle of development

- 6.1.1 This application relates to the provision of 19 affordable homes for local people on the edge of the village of Bomere Heath which is identified as a community cluster settlement under SAMDev policy MD1. It is outside but adjacent to the recognised development boundary within SAMDev and is therefore classed as open countryside where open market housing would not be supported. However, the Housing Supplementary Planning Document (SPD) and LDF Policy CS11 provide a positive supportive framework for the consideration of affordable homes for local people on 'exception sites'. 'Exception sites' are in locations that would not normally obtain permission for open market housing development, but an exception is made (subject to satisfying certain criteria) for proposals that relate to development of affordable housing for local people.
- 6.1.2 Shropshire LDF Policy CS11 permits '*exception sites for local needs affordable housing on suitable sites in and adjoining Shrewsbury, Market Towns and Other Key Centres, Community Hubs, Community Clusters and recognisable named settlements subject to scale, design, tenure and prioritisation for local people and arrangements to ensure affordability in perpetuity*'. CS5 allows such homes in the countryside '*on appropriate sites which maintain and enhance countryside vitality and character*'. MD7a states that '*Suitably designed and located exception site dwellings and residential conversions will be positively considered where they meet evidenced local housing needs and other relevant policy requirements*'.
- 6.1.3 The Housing SPD requires that the provision of affordable housing should relate to the local needs of the settlement and hinterland and be reflective of the size of the community. In August 2023 the housing enabling team confirmed that there were 19 households on the housing register waiting for properties in Bomere Heath and that the size and tenure of the proposed affordable homes would meet some of the

identified need.

- 6.1.4 The Parish Council and some residents consider that taking into account previous development in Bomere Heath combined with the 12 affordable homes that will be provided on the allocated site to the south of Bomere Heath, that 19 affordable homes are not required and also questions the number of two and three bedroom properties and the tenure.
- 6.1.5 The affordable housing team has confirmed that in November there was a need for 31 households in the parish of Bomere Heath and of those 19 households met the criteria for a dwelling in Bomere Heath itself and that the mix of one, two and three bedroom properties is a suitable mix to meet the demand. The split in tenure proposed is 13 affordable rent (4 one bed, 6 two bed and 3 three bed) and 6 shared ownership (all two bed). The housing officer has confirmed that this meets the demand with the highest demand being for two bed affordable rent.
- 6.1.6 The proposal is therefore supported from a housing need perspective, and it is considered that the number of homes in addition to that which will be provided as part of development on open market sites is suitable and acceptable and complies with the policy criteria for exception sites.
- 6.1.7 The PC and some residents have requested that other sites should be considered and explored and that the location should be in accordance with the development plan and located to the south of the village. Other sites have been reviewed by the applicant and none are available to them that would be suitable. Sites that are already identified for open market housing within the adopted and draft local plan would not come forward for 100% affordable housing.
- 6.1.8 It is considered that the proposed site is an appropriate location for an 'exception site' situated adjacent to the existing development boundary of a village identified as a community Hub. It will be adjacent to existing housing within a village with a variety of facilities and services that can be accessed without over reliance on a private vehicle. The proposal meets an identified need in terms of the number of homes and the split in size and tenure.

## 6.2 Layout, scale, design, character and appearance

- 6.2.1 SAMDev Policy MD2 (Sustainable Design) and Core Strategy Policy CS6 (Sustainable Design and Development Principles) requires development to protect and conserve the built environment and be appropriate in scale, density, pattern and design taking into account the local context and character and should also safeguard residential and local amenity. MD13 and CS17 seek to ensure that development protects and enhances the local character of the built and historic environment. Policy MD2 requires residential development (both open market and affordable) to provide on-site open space calculated at 30sqm per bedroom.
- 6.2.2 The layout has been amended to that first submitted and the number of dwellings

has been reduced to 19. More open space is being provided and a play area (LAP) located in the north-west corner away from the proposed attenuation pond and the existing dwellings. The proposal is for 4 one-bedroom dwellings (2 bungalows and 2 flats), 12 two-bedroom houses and 3 three-bedroom houses. The open space provision of over 1,300 square metres (that excludes the attenuation basin) exceeds the required, 1,110 square metres.

- 6.2.3 The reduction in the number of houses by one and the re-arrangement of the open space has addressed the issues raised by the PC regarding the layout, including retaining the pedestrian access into the site and the neighbouring field to connect with the PROW, and closure of the road so that there would be no vehicular access into the neighbouring field. In addition to the open space each home is provided with a satisfactory sized private garden, including a garden/cycle storage shed and bin storage area. It is considered that the development would not appear cramped and that the density is comparable to the development to the south in Percy Thrower Avenue.
- 6.2.4 Percy Thrower Avenue is a cul-de-sac development that was constructed following approval in 2004 (SA/03/1516/F) for the erection of 9 affordable and 9 open market dwellings comprising 6 bungalows and 12 two storey dwellings. It is considered that the scale and design of the proposed dwellings in the new cul-de-sac development proposed, and the mix in the size of units will provide a satisfactory balance of housing in keeping with the mix of scale and design of housing in the locality.
- 6.2.5 The dwellings facing the highway are proposed to be bungalows and will be in keeping with the single storey development on the opposite side of the road, and together with the proposed boundary hedge will help to soften the transition from countryside to built development when approaching the village from the north. The development will become the new edge of the north of the village (as did the development in Percy Thrower Avenue before) and now that the north-west corner has been rounded off and subject to satisfactory landscaping along the north boundary it is considered that the proposal would have no adverse impact on the character and appearance of the locality.
- 6.2.6 Any built development of a greenfield site changes its character and appearance and will result in the loss of agricultural land (which in this case is lower grade 3). It is considered that the development as proposed minimises the visual impact and that this minor encroachment into the countryside and loss of this small corner of agricultural land is far outweighed by the social and economic benefits of providing much needed affordable housing.

### 6.3 Residential amenity

- 6.3.1 Policy CS6 and MD2 seek to ensure that development contributes to the health and well-being of communities, including safeguarding residential and local amenity. Paragraph 135 of the NPPF states that planning policies and decisions should

ensure that development ‘creates places that are safe, inclusive and accessible and which promote health and well-being, with a high standard of amenity for existing and future users.’

- 6.3.2 With regards to existing residents the closest to the proposed built development are those to the south in Percy Thrower Avenue. Due to the site being situated to the north and due to the distance of over 14 metres between the side of the houses proposed on plots 15 and 16 and the nearest existing houses (2, 4, 6, 8, 10 and 12 Percy Thrower Avenue) and the distance between the rear of the proposed house on plot 16 and the front of 11 Willow Close (over 20 metres) it is considered that the development would not appear overbearing or obtrusive and would not result in overshadowing or a loss of light.
- 6.3.3 There will be over 20 metres between the rear east elevation of the proposed house on plot 16 and the front west elevation of 11 Willow Close. The side elevation of the houses on plots 15 and 16 that will face the rear of the existing houses are indicated to be blank. The proposal therefore has no windows that might overlook existing houses or gardens, and a condition is recommended to ensure that none can be added to these side elevations in the future. There is no right to a view and potential impact on property value is not a material consideration.
- 6.3.4 With regards to the living conditions of future residents the size of the houses meet minimum space standards and as previously noted satisfactory private gardens will be provided in addition to shared open space. Further survey work is required to determine whether gas protection is required and a pre-commencement condition requiring further ground gas risk assessment is recommended.
- 6.3.5 The MOD has referred to aircraft noise and that a noise assessment, and potentially mitigation, will be required. The recommended condition is included in Appendix 1 and will ensure that a noise assessment is carried out and submitted with details of any mitigation measures required (if necessary) to ensure satisfactory internal noise levels.
- 6.3.6 Subject to compliance with the recommended conditions it is considered that the proposal would have no significant adverse impact on existing residential amenity and the proposed development will provide satisfactory living conditions for future residents.
- 6.4 Access and parking
- 6.4.1 CS6 seeks to ensure that development is designed to a high quality, consistent with national good practice standards including appropriate landscaping and car parking provision. SAMDev MD2 requires that development should provide adequate on-site car parking to ensure that cars do not overflow onto surrounding roads and therefore negatively impact on the local road network. Paragraph 115 of the NPPF advises that development should only be prevented or refused on

highways grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe.

6.4.2 The proposed access is via a new opening in the hedge on to Merrington Road and the proposal includes the provision of 34 designated parking spaces and 3 visitor spaces. Highways have no objection to the proposal, and it is considered that a safe means of access will be provided to the highway and adequate parking provision for residents and visitors is indicated. The layout of the internal road layout is acceptable with location points for bins on refuse collection day indicated and adequate turning space for refuse vehicles.

6.4.3 Subject to compliance with the recommended conditions the proposal would have no adverse highway safety implications.

#### 6.5 Ecology, trees and landscaping

6.5.1 A Preliminary Ecological Appraisal prepared by Brindle & Green (June 2023) recommends further surveys with regards to Great Crested Newts due to a pond in the adjacent field. The Council's Ecologist advised that further survey work was required to determine whether a mitigation and compensation strategy is required or alternatively the applicant could apply into the Natural England's District Level Licencing (DDL) Scheme, in place of traditional surveying techniques.

6.5.2 A provisional certificate has been provided in respect of the DDL, and Ecology have confirmed that the IACPC will need to be countersigned by Natural England before a decision can be issued. Ecology have recommended conditions to be included on the decision notice and these are included in appendix 1.

6.5.3 Natural England advises that District Level Licensing (DLL) is an alternative approach to mitigation licensing for planning applications to develop sites which might affect great crested newts. District level licensing aims to increase the number of great crested newts by providing new or better habitats in targeted areas to benefit their wider population. It is a simpler and quicker process than mitigation licensing because planning applications do not need to include surveys of great crested newts or carry out mitigation work. Confirmation of acceptance by Natural England into the DLL scheme (receipt of a counter signed Impact Assessment and Conservation Payment Certificate IACPC) is required prior to determination.

6.5.4 Receipt of the IACPC that confirms that the application is suitable for district level licensing, will ensure new or better habitats can be provided for GCN in targeted areas to benefit their wider population and therefore maintain favourable conservation status. The Council's Ecologist has also confirmed that the submitted landscape proposal is acceptable and that subject to compliance with the recommended conditions the proposal will ensure the protection of wildlife and provide ecological enhancements as required by MD12 and CS17.

6.5.5 An Arboricultural Impact Assessment has been submitted that identifies 10



individual trees, 1 group of trees and 2 hedgerows. All trees and hedgerow are proposed to be retained apart from a short section of hedgerow to allow for the access to be provided. The loss of this small section of hedgerow is more than compensated for by the proposed hedgerow planting along the new boundary to the north and additional tree and hedge planting. A tree protection condition is recommended to ensure the protection of trees to be retained.

## 6.6 Drainage

6.6.1 Full drainage details have been submitted and have been confirmed to be acceptable by the Councils drainage team.

## 7.0 **CONCLUSION**

7.1 The proposal meets an identified need for affordable housing in the village of Bomere Heath, and the location of the proposed development is considered to be acceptable and in compliance with the terms of the exception sites policy outlined in the housing SPD and accords with CS5, CS11 and MD7a. Minor encroachment into the countryside and loss of this small corner of lower grade agricultural land is far outweighed by the social and economic benefits of providing much needed affordable housing.

7.2 The scale, design and appearance of the proposed dwellings and the layout of the site are appropriate and includes policy compliant open space. It is considered that the proposal would have no adverse impact on the character and appearance of the locality or have a significant adverse impact on existing residential amenity, and the proposed development will provide satisfactory living conditions for future residents and complies with policies CS6, CS17 and MD2.

7.3 There would be no highway safety implications as a safe means of access and adequate parking and turning space will be provided, and pedestrian access to the adjacent field and PROW will be maintained. District level licensing will ensure new or improved habitats can be provided for GCN in targeted areas to benefit their wider population. Subject to compliance with the recommended conditions the existing trees to be retained will be protected, landscaping of the site will be secured that will enhance biodiversity, and the proposal will ensure the protection of wildlife and provide ecological enhancements as required by MD12 and CS17.

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

### 8.1 **Risk Management**

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

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

hearing or inquiry.

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

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

## **8.2 Human Rights**

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

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

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

## **8.3 Equalities**

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

## **9.0 Financial Implications**

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

## **10. Background**

## Relevant Planning Policies

### Central Government Guidance:

National Planning Policy Framework

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

CS5, CS6, CS11, CS17, MD2, MD7a, MD12 and the housing SPD

#### 11. Additional Information

##### List of Background Papers

23/02934/FUL - Application documents associated with this application can be viewed on the Shropshire Council Planning Webpages <https://pa.shropshire.gov.uk/online-applications/applicationDetails.do?activeTab=summary&keyVal=RXC4VGTDIC200>

Cabinet Member (Portfolio Holder): Councillor Chris Schofield

Local Member: Councillor Lezley Picton

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

a) No existing tree shall be wilfully damaged or destroyed, uprooted, felled, lopped, topped or cut back in any way other than in accordance with the approved plans and particulars, without

the prior written approval of the Local Planning Authority. Any approved tree surgery works shall be carried out in accordance with British Standard BS 3998: 2010 - Tree Work, or its current equivalent.

b) No works associated with the development permitted will commence and no equipment, machinery or materials will be brought onto the site for the purposes of said development until all tree protection measures specified in the submitted Tree Protection Plan have been fully implemented on site and the Local Planning Authority have been notified of this and given written confirmation that they are acceptable. All approved tree protection measures must be maintained throughout the development until all equipment, machinery and surplus materials have been removed from the site. Nothing shall be stored or placed in any area fenced in accordance with this condition and the ground levels within those areas shall not be altered nor any excavation be made, without the prior written consent of the Local Planning Authority. A responsible person will be appointed for day to day supervision of the site and to ensure that the tree protection measures are fully complied with. The Local Planning Authority will be informed of the identity of said person.

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

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

4. No development shall take place (including demolition, ground works and vegetation clearance) until a District Level Licence with respect to great crested newts has been obtained from Natural England and submitted to the Local Planning Authority.

Reason: To ensure the protection of great crested newts, which are European Protected Species.

5. 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.

6. Prior to the commencement of development a Construction Traffic Management Plan/Method Statement (CTMP/MS) shall be submitted to and approved in writing by the Local Planning Authority; the CTMP/MS shall remain in force for the duration of the construction period of the development.

Reason: In the interests of highway/pedestrian safety and local amenity.

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

7. All works to the site shall occur strictly in accordance with the mitigation and enhancement measures regarding bats, birds, great crested newts, reptiles and other terrestrial mammals as provided in Section 7 of the Preliminary Ecological Appraisal (Brindle & Green, June 2023).

Reason: To ensure the protection of and enhancements for bats and Great Crested Newts, which are European Protected Species, birds which are protected under Section 1 of the 1981 Wildlife and Countryside Act (as amended) and reptiles which are protected under the 1981 Wildlife and Countryside Act (as amended).

8. Prior to first occupation / use of the buildings, the makes, models and locations of the following wildlife boxes shall be submitted to and approved in writing by the Local Planning Authority.

- A minimum of 8 external woodcrete bat boxes or integrated bat bricks, suitable for nursery or summer roosting for small crevice dwelling bat species.
  - A minimum of 8 artificial nests, of either integrated brick design or external box design, suitable for starlings (42mm hole, starling specific), sparrows (32mm hole, terrace design), house martins (house martin nesting cups), swallows (swallow nesting cups) and/or small birds (32mm hole, standard design).
  - A minimum of 8 artificial nests, of integrated brick design, suitable for swifts (swift bricks).
  - A minimum of 5 invertebrate bricks/hotels (external or integrated design) suitable for pollinators.
  - A minimum of 3 hedgehog domes (standard design) to provide suitable refuge for hedgehogs.
- The wildlife boxes shall be erected on the site prior to the first occupation of the development and 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.

9. All hard and soft landscape works shall be carried out in accordance with the approved plans prior to the first occupation of any part of the development hereby approved. Any trees or plants that, within a period of five years after planting, are removed, die or become, in the opinion of the Local Planning Authority, seriously damaged or defective, shall be replaced with others of species, size and number as originally approved, by the end of the first available planting season.

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

10. Prior to above ground works, a Noise Impact Assessment to include full details of mitigation measures (if required) to achieve daytime noise levels of 35dB LAeq (16hrs) within living rooms between 0700 and 2300 hours, and night-time levels of 30dB LAeq (8 hrs) within bedrooms between 2300 and 0700 hours, shall be submitted to and approved in writing by the Local Planning Authority. The dwellings shall be constructed in accordance with any approved mitigation measures and shall be retained for the lifetime of the development.

Reason: To ensure that the approved development provides a satisfactory internal living environment for future occupiers.

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

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

12. 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.

13. The construction of any new estate street shall not be commenced until full engineering, drainage, street lighting and constructional details of the streets proposed for adoption have been submitted to and approved in writing by the local planning authority. The development shall, thereafter, be constructed in accordance with the approved details.

Reason: In the interest of highway safety; to ensure a satisfactory appearance to the highways infrastructure serving the approved development; and to safeguard the visual amenities of the locality and users of the highway.

14. The construction of any new estate street shall not be commenced until an estate street completion plan has been submitted to and approved in writing by the local planning authority. The estate street completion plan shall set out the standards that estate streets serving each residential unit of the development will be completed.

Reason: To ensure that the estate streets serving the residential units are completed and thereafter maintained to an acceptable standard in the interest of residential / highway safety; to ensure a satisfactory appearance to the highways infrastructure serving the development; and to safeguard the visual amenities of the locality and users of the highway.

15. Prior to the development hereby permitted being first occupied a Travel Plan shall be fully implemented in accordance with details to be first submitted to and approved in writing by the Local Planning Authority; the Travel Plan shall remain in place for the lifetime of the development.

Reason: To promote sustainable travel to the site in the interests of reducing carbon emission and promoting health benefits.

16. Prior to the first occupation of any part of the development a 'landscape management plan' (to include a maintenance schedule and management responsibilities including details of the financial and legal means through which the management plan shall be implemented) for the future management and maintenance of the 'open space' (which shall include the play area and all landscaped areas of open space other than within private domestic gardens), shall be submitted to and approved in writing by the local planning authority. The open space shall permanently remain for public use and enjoyment for the lifetime of the development, and the landscape management plan shall be carried out as approved in perpetuity or in accordance with an alternative management plan to be submitted to and approved in writing by the LPA.

Reason: To ensure the adequate future management and maintenance of the open space.

17. Prior to the first occupation of the development hereby approved, details of the play equipment to be installed in the 'LAP' (Local Area for Play within the POS (public open space) indicated on the approved plans shall be submitted to and approved in writing by the LPA. The proposed play equipment shall be fully installed in accordance with the approved details prior to the first occupation of any part of the development. Prior to installation of the approved play equipment a 'management plan' (to include a maintenance schedule and management responsibilities including details of the financial and legal means through which the management plan shall be implemented) for the future management and maintenance of the approved play equipment shall be submitted to and approved in writing by the local planning authority. The management plan shall be carried out as approved in perpetuity or in accordance with an alternative management plan to be submitted to and approved in writing by the LPA.

Reason: To ensure the provision of, and future management and maintenance of, the approved play equipment situated within the open space.

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

18. No windows or other openings shall be formed in the side elevation or side roof slope of the houses on plots 15 and 17 unless they are obscure glazed and non-opening.

Reason: To preserve the amenity and privacy of adjoining properties.

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Committee and date  
**Northern Planning Committee**  
 5<sup>th</sup> March 2024

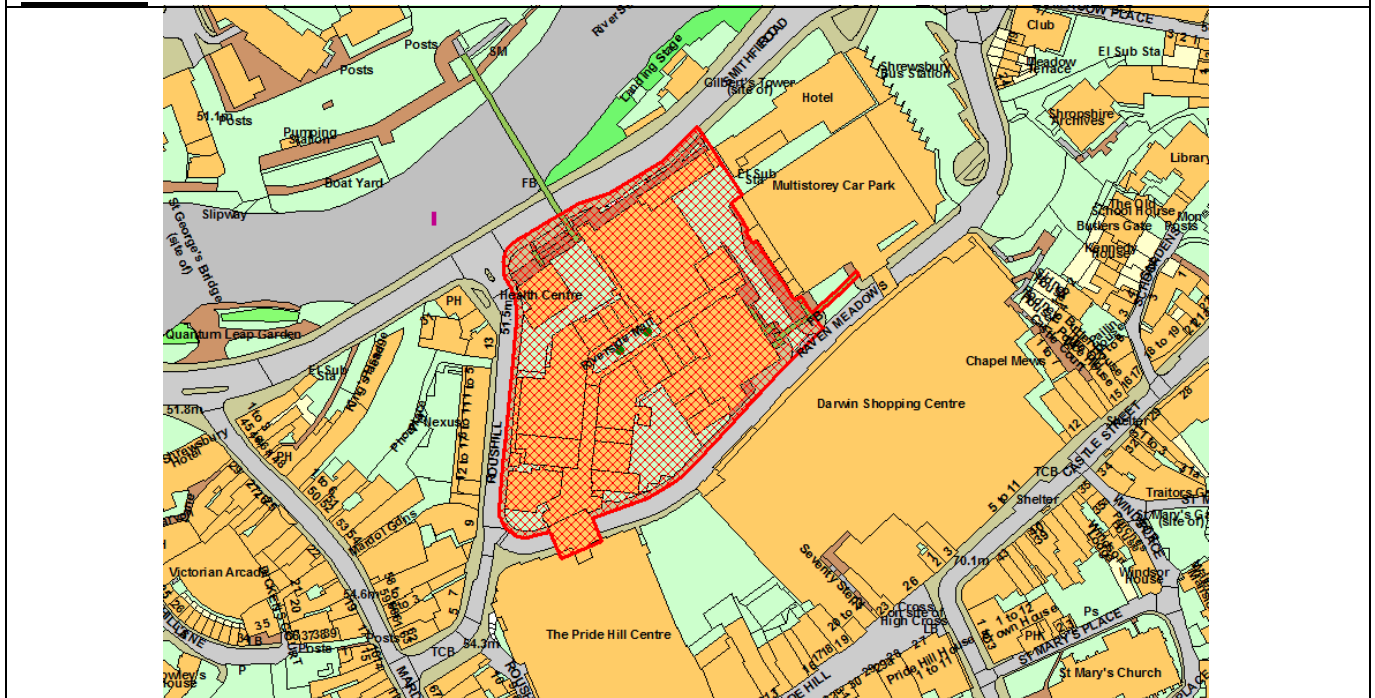
## Development Management Report

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

### Summary of Application

<b>Application Number:</b> 23/05402/FUL	<b>Parish:</b>	Shrewsbury Town Council
<b>Proposal:</b> Demolition of the Riverside Shopping Centre and related activity, enabling works including boundary wall and the formation of a new public park following demolition, to include pocket gardens, event space and amphitheatre, accessible ramp, lift and staircase, flood attenuation and temporary meanwhile uses across the Site.		
<b>Site Address:</b> Riverside Shopping Centre Pride Hill Shrewsbury Shropshire		
<b>Applicant:</b> Shropshire Council		
<b>Case Officer:</b> John Shaw	<b>email:</b> john.shaw@shropshire.gov.uk	

**Grid Ref:** 349132 - 312736



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**Recommendation:- Delegate to the Head of Service** subject to the conditions as set out in Appendix 1 and any amendments to these conditions as considered necessary by the Head of Service.

## REPORT

### 1.0 THE PROPOSAL

- 1.1 This application seeks approval for the demolition of the Riverside Shopping Centre and would also include the removal of a medical centre, former nightclub, police station and bridges connecting Riverside Shopping Centre to Raven Meadows car park and Pride Hill Shopping Centre. Following on from the demolition works, all hardstanding, floor slabs, foundations and footings would be removed to a depth of 1.5m below ground level. The application also seeks the formation of a new public park to include pocket gardens, event space and amphitheatre, accessible ramp, lift and staircase, flood attenuation and temporary meanwhile uses across the site (Meanwhile uses refer to short-term uses that take place while a site is underutilised or under construction).
- 1.2 The park would comprise a series of landscaped, garden terraces which form differing character areas and would run adjacent to Roushill and step down towards the river. Frankwell bridge would remain, however, a new lift from the bridge would be provided as well as new accessible routes that would pass through the podium level (where meanwhile uses would be hosted). The lift core would be brick clad and form part of the overall hard landscape design. The podium would consist of materials that would link to local geology and would be extended as part of future applications to accommodate the building plots proposed as part of application 2 (see paragraph 1.3 below). An amphitheatre would step down from the podium allowing people to sit and enjoy views towards the River Severn and the Welsh Bridge. A new arched folly gateway wall would be constructed to the northern end of the park.
- 1.3 The application is planned to be the first of four that will be submitted to secure the regeneration of the entire Riverside Shopping Centre site as well as the Pride Hill Shopping centre. The Design & Access Statement outlines the timeline for the applications as follows:  
Planning Application 1 – the subject of this report;  
Planning Application 2 – Outline application for the redevelopment of the Riverside Shopping Centre, following demolition, for office led mixed use development – proposed to be submitted in Q1 2024;  
Planning Application 3 – Demolition and redevelopment of Pride Hill Shopping Centre for leisure led mixed use development – proposed to be submitted in Q1/Q2 2024;  
Planning Application 4 – Reserved matters application for the detail of Application 2 (office led mixed use development) – Q2 2024.
- 1.4 To provide a wider context of the future development, an illustrative masterplan accompanies the current application and will accompany future applications.
- 1.5 Summary of Relevant site history  
The Gap Site, SA/06/1170/RM - 5 storey retail building approved at Gap Site (reserved matters granted in 2006). Extant permission

The Gap Site, 12/03258/FUL - 9 Storey Car Park approved in 2013 at the Gap Site

Riverside Shopping Centre, 12/00409/EIA – Demolition of Riverside Shopping Centre and construction of new shopping centre along with offices, new bridging connections to Pride Hill and Darwin Centres and undercroft car park. Increase in retail floorspace of 26,000sqm

Riverside Medical Centre, 21/03951/FUL - Demolition of Medical Centre at the junction of Smithfield Road and Roushill – approved December 2021

Riverside Shopping Centre, 23/02123/FUL - Partial demolition of Units 2, Units 44-48, former police station and walkway canopy to allow for ground investigations– approved July 2023

#### Pre-application engagement

1.6 Paragraph 39 of the NPPF states that ‘Early engagement has significant potential to improve the efficiency and effectiveness of the planning application system for all parties’ Prior to the submission of this Planning Application, the Applicant has engaged in extensive pre-application discussions with the Local Planning Authority (LPA). Fortnightly pre-application discussion meetings have taken place between the LPA, BNP Paribas Real Estate and Faulkner Brown (the architects for the scheme) on behalf of the Applicant to discuss the progress of planning applications and immediate/on-going actions, and monthly meetings have been held with the LPA and Rivington Hark working on behalf of the Applicant to discuss the scheme proposals and monitor progress.

1.7 Public consultation has also been undertaken on the masterplan which ran from October 2023 for 4 weeks. A total of 424 responses were recorded, a summary of the main issues raised is summarised in the Planning Statement which supports this application.

1.8 The application has been advertised as a departure to the local plan as SAMDev policy S16.1.c allocates the Riverside Shopping centre site for the construction of a new shopping centre as part of a retail led development (see paragraph 6.1 for further discussion).

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

2.1 Smithfield Riverside as a whole is approximately 4 hectares and lies within the River Severn loop to the north west of Shrewsbury’s town centre. Smithfield Riverside is bound by the River Severn to the north-west and the Darwin Shopping Centre and Pride Hill Shopping Centre to the south east; between these shopping centres is the surface level car park known as the ‘Gap Site, to the rear of which is a length of medieval town wall and is a Scheduled Ancient Monument

2.2 The site that this Planning Application relates to is the far western end of Smithfield Riverside, comprising the Riverside shopping centre, police station and GP surgery. The majority of the site is within the ownership of the Council. The Site is bounded by Smithfield Road, Roushill and Raven Meadows. The Riverside Shopping Centre connects via a high-level walkway to Raven Meadows multi-storey car park which lies just outside the red line and provides onward links to the bus station and Darwin Shopping Centre. The Site area extends to approximately 1.2 ha and is within the Shrewsbury Conservation Area.

2.3 The Riverside Shopping Centre is vacant and has now closed to the public.

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

- 3.1 This application does not meet the criteria for delegated decisions as set out in the Council's adopted 'Scheme of Delegation' given the application has been submitted by Shropshire Council to itself which also acts as the Local Planning Authority. The application is therefore presented to Planning Committee for determination.
- 4.0 **COMMUNITY REPRESENTATIONS (comments can be read in full online on the Council's planning pages using the application reference)**
- 4.1 **- Consultee Comments**
- 4.1.1 **Shrewsbury Town Council: No Objection**  
*'Whilst the Town Council raise no objections to this application it was noted that any street furniture, planters and bins in this location need to be removed and re-used elsewhere in the Town prior to demolition commencing.'*
- 4.1.2 **SC Highways – No Objection subject to condition requiring submission of Construction Environment Management Plan.**
- 4.1.3 **SC Regulatory Services: No Objection subject to conditions to secure a Construction Environment Management Plan and Noise Management Plan.**
- 4.1.4 **Environment Agency: No Objection in principle; further information requested. As part of an initial response, a number of conditions have been recommended relating to:**
  - Flood Warning & Evacuation Plan
  - Land Contamination
  - Piling
  - Drainage
  - Pollution control

*"We have engaged in regular and on-going discussions in respect of the overall (phased) development proposal for this regeneration site and have no objection in principle to this application. However, as mentioned in our initial email reply of 22 January 2024 we sought some clarity on a few issues. Some of the additional information we requested has not yet arrived"*

Planning Officer comment: Any follow-up response from the EA will be referenced on the planning committee update sheet.
- 4.1.5 **SC Trees: No Objection**  
*'Although the loss of trees is high in the terms of numbers on this phase of the development, owing to their size, condition, situation and amenity value the impact to public amenity is low to moderate in the short-term with a potential for significant long-term improvement as the new planting becomes established. It is considered that the proposals comply with the relevant national and local planning policies and therefore no objection is raised.'*
- 4.1.6 **SC Conservation: No Objection**
- 4.1.7 **SC Ecology: No Objection subject to conditions**  
Final response 19/02/24: *'Conditions and informatives have been recommended to ensure the protection of wildlife and to provide ecological enhancements under NPPF, MD12 and CS17.'*

*I have reviewed the information and plans submitted in association with the application and I am happy with the survey work carried out.*

1<sup>st</sup> response 11/01/24: Objection

*I have reviewed the submitted Preliminary Ecological Appraisal and I am satisfied with the survey effort provided and the mitigation and compensation recommended. However, a Biodiversity Net Gain Assessment is considered necessary to support this application.*

#### 4.1.8 **SC Archaeology: No Objection subject to condition**

Final response 11/02/24: *'The comments submitted by the Shrewsbury Civic Society, particularly those relating to the Roushill Wall (Civil War defences - HER PRN 04303), are respectfully noted. As indicated in our previous advice, the degree to which the defences that were observed on the proposed development site in 1987 survived the subsequent construction of the Riverside Medical Practice building, and prior to that the construction of the Frankwell Footbridge, is unclear at present. The report on the salvage recording exercise that was undertaken in 1987 refers to them having been partially removed prior to reburial. This implies that they may survive at depth, but this is likely to be below the depth of c. 1.25m below the current surface at which they were found to survive at that date.*

*Through discussions with the Applicant's archaeological consultant, it has been agreed in principle that, as an initial measure, the updated Archaeological Mitigation Strategy will include a trial trenching evaluation of the areas of the proposed development site that are considered to have the highest potential. The line of the Roushill Wall, below the current medical practice, as well as the site of the Inn and group of former buildings on the northern side of the Cross Lane, will both be targeted through this work. The trenches will be of sufficient size and design to enable deposits below 1.25m to be fully and safely evaluated, in order to assess their character, extent, date and significance. Thereafter, the results will inform the approach to subsequent phases of archaeological mitigation, including the need for, and feasibility of, preserving remains in situ. This is consequently a complex exercise both technically and logistically because it needs to be sequenced into the demolition programme. As a result, it is advised that the requirement for the submission and approval of a fully updated version of the 2012 Archaeological Mitigation Strategy, together with Written Schemes of Investigation for each phase of the work set out in the Strategy, should be made a condition of any planning permission for the proposed development'.*

1<sup>st</sup> response 11/01/24:

*'...As with the previous shopping centre redevelopment scheme (ref. 12/00409/EIA), it is therefore advised that an Archaeological Mitigation Strategy for the site should be secured through an appropriately worded planning condition. Given the complexity of the site, discussions with the Applicant remain ongoing at the present time about the scope, extent and sequencing of the archaeological works that will be required as part of this Strategy. Officers will therefore provide further advice on the wording of the condition in due course once these discussions are concluded and will request a re-consultation from the Planning Officer at an appropriate time to enable them to do this'.*

#### 4.1.9 **SC Conservation: No Objection**

*'Our Team has been engaged in extensive and on-going pre-application discussions relevant to this phased scheme and are supportive of the overall vision for the redevelopment of this area, where the provision of public open space and public realm and landscaping improvements at this initial stage are fully supported and would be*

*considered as a public benefits'*

**4.1.10 Historic England: No Objection**

*'We welcome the project team's vision for the redevelopment of this underused area of Shrewsbury, and the opportunities to enhance and better reveal the historic environment. The inclusion of geodiversity references would help retain the character of the Conservation Area and help create a more cohesive link between the town's riverside area and historic centre.*

*The success of this part of the wider scheme, and its ultimate contribution to the placemaking and the Conservation Area, would depend greatly upon the use of high-quality materials, finishes and close attention to design detail. Should the Council consider that public benefits of the proposal outweigh the harm to the heritage assets, we would refer you to your own expert landscape and heritage advisors to consider matters of detail to ensure the detail, quality and execution of the intended approach is achieved'.*

**4.1.11 SUDS: No Objection subject to condition**

**4.1.12 SC Landscape Consultant: No Objection; advisory comments provided.**

**4.1.13 Canal & River Trust: No comment**

*'This application falls outside the notified area for its application scale and location. We are therefore returning this application to you as there is no requirement for you to consult us in our capacity as a Statutory Consultee'.*

**4.1.14 Natural England: No comment received at time of writing.**

**4.1.15 Severn Trent: No comment received at time of writing.**

**4.1.16 West Mercia Constabulary: No comment received at time of writing.**

**4.2 - Public Comments**

4.2.1 At the time of writing this report, four public comments have been received with three comments raising objections and one letter of support. The material reasons for objection are as follows:

- Insufficient detail supporting application
- Doubt raised about the deliverability of a high-quality maintenance programme for the proposed park
- Park is unnecessary and would represent a cost to the council
- Park should be larger
- Poor design
- Criticism of the overall masterplan and how responsive it is to the town's needs

Planning Officer comment: It should be noted that the scope of the current application is limited to the demolition works and new park, though it is accepted that this application does form an integral part of the overall illustrative masterplan.

- The loss of Riverside Medical Centre

Planning Officer comment: The principle of the demolition of the former medical centre was accepted as part of 21/03951/FUL; this permission remains extant.

4.2.2 Shrewsbury Civic Society expressed support for the proposal for the following reasons:

*'Shrewsbury Civic Society (SCS) considers that the proposed Roushill Park is an imaginative and practical response to the related issues of a regularly flooded site and the need to provide better pedestrian access from Frankwell car park, through the new park, and ultimately on to Pride Hill.*

*The park itself should hopefully prove to be an asset to the town in its own right with a design that could potentially permit a variety of public activities. It is refreshing that such an amenity is to be the first development of the Smithfield/Riverside and not merely an afterthought as would probably have been the case with a commercially led development.*

*SCS does however have a serious concern about the proposals which we see as an avoidable lost opportunity if not included within this scheme. The remains of the 17th century Civil War town wall (Roushill Wall) are believed to survive substantially intact under and adjacent to the former Riverside Medical Practice building. These remains must be carefully protected and preserved during the demolition process.*

*There should then be a full archaeological excavation of the wall and its immediate environs to better understand their construction, context and history and to inform their future preservation.*

*SCS does not believe that an archaeological watching brief alone would be sufficient in this particular area.*

*Lastly, we urge that excavated sections of the wall should become a feature of the new park. The design and siting of the proposed 'Gateway Wall' could be informed by these excavations. At the moment, there is no meaningful relationship between this feature and the town wall that it is described as a "reinterpretation of". In our view nothing would better 'ground' the new park in the rich historical past of this area than this approach. Shrewsbury's defensive structures have often been treated abysmally in the recent past with the demolition of sections of the medieval town wall in the 1980s for the Pride Hill Shopping Centre and more recently the burying of the excavated fortified St George's Bridge under Theatre Severn.*

*Here in Roushill is an opportunity to incorporate and display an important slice of the town's history within what otherwise appears to be a laudable scheme'.*

Planning Officer comment: The comments of the SCS are addressed by the council's Archaeologist (see para 4.1.8 and in the main body of this report)

## **5.0 THE MAIN ISSUES**

- Principle of development
- Design, Character, and Appearance
- Impact on Heritage
- Noise, Air Quality and Residential Amenity impacts
- Contamination
- Drainage and Flood Risk
- Highways
- Ecology
- Trees
- Sustainability

## 6.0 OFFICER APPRAISAL

### 6.1 Principle of Development

- 6.1.1 It is acknowledged that the overall vision for the regeneration of Smithfield Riverside as indicated in the illustrative masterplan that has been submitted and which the current application forms an integral part, does not comply with policy S16.1c of the Shropshire Council Site Allocations and Management of Development Plan (SAMDEV) which allocates the redevelopment of the site for retail led development. Policy S16.1 supplements CS2 and aims to help to meet the retail floorspace targets for Shrewsbury set out in Policy CS15 of the Core Strategy. Subsequently, the application has been advertised as a departure from the Local Plan. However, it is considered that material considerations exist which indicate that the plan should not be followed in this instance.
- 6.1.2 At the time of the adoption of the SAMDEV, the approved application 12/00409/EIA for the demolition of Riverside Shopping Centre and the construction of a new shopping centre along with offices (totalling an increase in retail floorspace of 26,000sqm) remained extant. That application has since lapsed, and the condition of the Riverside Shopping Centre has continued to deteriorate. Crucially, a number of policy documents have since been adopted which posts a vision for Smithfield Riverside as no longer retail led but a mixed-use scheme incorporating office, residential and ground floor commercial/leisure uses. The current application and the illustrative masterplan are framed by this vision as detailed in the Big Town Plan (2018), Shrewsbury Masterplan Vision (2021) and the Smithfield Riverside Strategic Development Framework (SRDF) (2022); documents adopted by the Council as material considerations for decision making. The Council's Town Centres Study (2020) further concluded that due to poor performance, peripheral location, low occupancy and the unattractive character of the immediate area, the shopping centre should be demolished and replaced with a development which incorporates a mix of uses which largely excluded retail. Informed by this study, the Council's emerging Local Plan has deleted the retail allocation at Smithfield Riverside and removed the site from the town's Primary Shopping Area on the planning policy map. Though the emerging Local Plan carries limited weight as it continues through the examination process, the deletion of the allocation lends further weight to the assessment that material considerations exist which would allow the LPA to depart from the current adopted Local Plan in this instance.
- 6.1.3 It should also be highlighted that the NPPF (para 126) is clear that decisions need to reflect changes in the demand for land. *'Where the LPA considers there to be no reasonable prospect of an application coming forward for the use allocated in a plan a) it should, as part of plan updates, reallocate the land for a more deliverable use that can help to address identified needs (or, if appropriate, deallocate a site which is undeveloped); and b) in the interim, prior to updating the plan, applications for alternative uses on the land should be supported, where the proposed use would contribute to meeting an unmet need for development in the area.'*
- 6.1.4 It is considered that given the aims of the latest adopted documents, the conclusions of the Town Centres Study and the emerging Local Plan, the LPA should support an alternative approach to developing this site in accordance with paragraph 126 of the NPPF.
- 6.1.5 The overarching aim to regenerate the Riverside site is supported by the Core Strategy and SAMDev. Policy CS2 of the Core Strategy highlights that the area is a



redevelopment priority for the Council. Policy CS2 and CS15 expects development to positively contribute to the delivery of wider investment, regeneration and town centre management strategies and it is considered that the proposal would provide a setting for investment in better quality buildings by removing underused, unattractive buildings and the creation of high-quality public realm and accessible linkages.

- 6.1.6 The new park would help link the historic core of the town to the River Severn and would comply with the 'Big Connection' regeneration strategy of the Big Town Plan and meet a key design aim of the SRDF which is to provide a good, active pedestrian and cycle connection between Smithfield, the town centre and Frankwell across the river. Other matters which weigh in favour of the development relating to good quality design, landscaping and heritage enhancements are discussed later in this report.

*Phased approach to delivering the masterplan*

- 6.1.7 As stated, the current application is solely for demolition and the creation of the park though this element forms an integral part of the illustrative masterplan which will direct applications 2, 3 and 4 (see paragraph 1.2) Following receipt of initial Levelling Up Funding (LUF) and Local Enterprise Partnership (LEP) funding, the Smithfield Riverside project would be delivered in a series of phases, commencing with demolition, and enabling works. The LPA accepts that this would assist in de-risking the site and improving its viability and suitability for mixed-use development in line with the Big Town Plan aspirations, the (SRDF), the Council's Economic Growth Strategy and Shropshire Plan. This approach would comply with paragraph 125 of the NPPF which states that LPA's should take a proactive role in helping to bring forward land that may be suitable for meeting development needs, including suitable sites on brownfield land or held in public ownership, both of which apply in the case of the application site.
- 6.1.8 The LUF funding is subject to compliance with the completion of demolition and enabling works for the Riverside Centre by March 2025. The LEP funding is dependent on there being a building contract to be let for the redevelopment of Pride Hill by March 2025. The requirements of the two funding deadlines are not aligned, which restricts the ability to submit one comprehensive Planning Application for the complete regeneration of Smithfield Riverside. The supporting Design & Access Statement makes clear that *'these deadlines are also soon and to design and secure planning permission for a comprehensive development would be extremely challenging. To overcome this, a phased approach will be the key to creating a masterplan that is deliverable and viable'*. This phased approach is accepted given the risk to the deliverability and viability of the masterplan, if a phased approach was not accepted.
- 6.1.9 Following demolition, infrastructure to enable temporary meanwhile uses to occupy the site would be provided and this would be secured by condition as part of a meanwhile use strategy. Meanwhile uses have the potential to animate the area between the demolition and construction works relating to application 2. Such uses would provide social and economic value and aid the transition of the wider use of the area from an underutilised, hostile place to one that is proposed to become integral to the urban fabric of Shrewsbury.

## **6.2 Design, Character, and Appearance**

- 6.2.1 Core Strategy policy CS2 seeks the promotion, conservation and enhancement of the town's natural and historic features, heritage assets, green corridors and spaces, and environmental quality, including the corridors of the River Severn and its tributaries and the town centre. CS6 seeks to ensure that development respects and enhances local

distinctiveness and amongst other factors, is appropriate in scale, density, pattern, and design, taking into account local context and character and those features which contribute to local character. This policy also seeks to maintain and improve the health and wellbeing of communities including safeguarding residential and local amenity.

- 6.2.2 Policy MD2 ‘Sustainable Design’ of the SAMDev additionally 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.
- 6.2.3 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.
- 6.2.4 Policies SP5 (High-Quality Design) and policies DP14-DP17 of the emerging plan are also considerations in determining the acceptability of design for new development though again, the weight to be attributed to these policies is limited as the emerging plans has not yet been adopted.
- 6.2.5 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.
- 6.2.6 The SRDF acknowledges that whilst the plans may change as more detailed work is undertaken, the requirement for a high standard of urban design, architecture and public space is fundamental to the redevelopment of the site. It sets out a set of core principles to ensure delivery of a place of quality that integrates with its setting and is underpinned by a sustainable approach.
- 6.2.7 The Riverside Shopping Centre, medical centre and police station structures are not considered worthy of retention due to their harmful contribution to the visual character of the immediate area. The existing buildings present blank facades, low quality materials, limited landscaping within the open spaces while there is poor connectivity through the site and to the wider town. The highway network which encircles the site is a further barrier to connecting the site to the river to the north and the historic town centre to the south. The scale of the shopping centre and location ensures its poor design and appearance is unduly prominent within the townscape from Smithfield Road, Roushill, Raven Meadows and the bus station. The result is that the site and immediate streetscene is underutilised and uninviting to pedestrians.
- 6.2.8 The application would by contrast provide a high-quality public realm connection between the town and river. Improved pedestrian accessibility and appropriate development of open space in a multi-functional approach would enhance the townscape. The amphitheatre structure and event lawn would offer views of Welsh Bridge and the river, whilst the gateway folly wall feature would provide partial relief from the effects of Smithfield Road traffic. Though the details of the materials to be used would be secured by condition, reference to local geology and historic structures in the

Design and Access Statement demonstrates a holistic approach which is supported. A landscaping condition would be added to ensure a high-quality hard and soft landscaping scheme is delivered and maintained.

6.2.9 The Design and Access Statement details the accessibility strategy that has informed the plans. A major constraint of the site is the change of ground levels from the Frankwell footbridge and then down further to Smithfield Road. The plans show that coming down from the Frankwell Footbridge, an intermediate podium level can be reached via a new staircase (with viewing platform looking towards the Welsh Bridge) or the 24-hour publicly accessible lift (the existing lift in the Riverside Shopping Centre is inaccessible outside of shopping centre opening hours). From podium level, the public would be able to travel through the amphitheatre - either via the staircases or via the 1:21 gradient gentle slope, down to park level. The lift comes down to near park level and allows clear and open access to the ramp down to the park. This arrangement demonstrates that the design of the public realm has had due regard to those with disabilities and would represent an enhancement of the accessibility for such people compared to existing. The Applicant has considered the possibility of removing the lift and creating a ramp from the footbridge to the park, however, this was deemed unfeasible due to the unacceptable distance wheelchair users would have to cover while impacting on the useability of the site for future meanwhile uses.

6.2.10 *Design Review Panel*

Paragraph 138 of the NPPF states '*In assessing applications, local planning authorities should have regard to the outcome from these processes, including any recommendations made by design review panels*'. The LPA now require all large-scale developments to engage with review panels to drive forward good-quality design. The Applicant has duly engaged with Design Midlands who were tasked with carrying out an independent design review of the proposal. Due to the submissions being broken down into four applications, the Applicant has agreed to carry out a design review with Design Midlands and the LPA at each stage. The first Design Review Panel was held in early November and received clear, positive feedback from the review panel which concluded regarding the masterplan:

6.2.11 '*The site as existing has a confused street layout, suffers from severance and feels to a large degree like the 'back of town'. The development provides a unique opportunity to repair/ stitch together and transform this part of the town centre and positively change perceptions of the area. The site has significant potential and the investment in Shrewsbury town centre is welcome. The shared ambition, the collaborative approach and the work undertaken to date is rigorous and commendable. This approach has led to a scheme which is sensitive, well considered overall and responds positively to its site context*'.

6.2.12 The panel also welcomed the fact that the park would form part of the first application as it would set useful quality standard for the development.

6.2.13 Overall, it is considered that the development would comply with policies CS2, CS6, CS17, MD2 and MD13 of the Local Plan as well as the Big Town Plan, the SRSDf, the relevant policies of the emerging Local Plan and the NPPF.

### 6.3 Impact on Heritage

6.3.1 Policies CS6 and CS17 seek to ensure that development protects, restores, conserves, and enhances the natural, built, and historic environment and does not adversely effect

the heritage values and functions of these assets. MD2 further states that for development to be considered acceptable, it is required to contribute to and respect locally distinctive or valued character and existing amenity value and this includes '*Protecting, conserving and enhancing the historic context and character of heritage assets, their significance and setting, in accordance with MD13*'. Policy MD13 expresses the need for the impact of development on a designated heritage asset and its setting to be thoroughly assessed against the significance of the asset. Development should conserve and where appropriate enhance the significance and wherever possible, proposals should avoid harm or loss of significance to designated or non-designated heritage assets, including their settings.

- 6.3.2 Policy MD13 takes a similar approach as the NPPF as outlined in Section 16, insofar as it requires proposals to justify any harm to a heritage asset and demonstrate the overriding public benefits which would outweigh the damage to that asset or its setting. Significance is defined in the NPPF as the value of a heritage asset to this and future generations because of its heritage interest. That interest may be archaeological, architectural, artistic or historic.
- 6.3.3 Legislatively, Section 72 of the Planning (Listed buildings and Conservation Areas) Act 1990 requires special attention to be paid to the desirability of preserving or enhancing the character or appearance of a Conservation Area.
- 6.3.4 The Riverside Shopping Centre, former GP surgery and police station (both of which have extant permissions in place for their demolition and part demolition) are later 20th Century buildings located within the Shrewsbury Conservation Area and the Town Centre Special Character Area. The loss of these structures would cause no harm to value of the Conservation Area given their limited visual and historic value. During the demolition phase, there would be some limited harm to heritage assets through setting impacts on the Conservation Area and potential ground disturbance to non-designated buried remains. However, these would be temporary and would constitute a lower level of less than substantial harm. A condition would be imposed to control the appearance of the hoardings that would be erected during demolition.
- 6.3.5 Non-designated buried remains of the town's Civil War defences are known, or expected to be present, within parts of the application site. Historic England highlight that harm to non-designated buried archaeology through direct impact during the construction of the park, would be a high level of less than substantial harm, potentially substantial harm depending on any remains found, since it could involve loss of any buried city wall remains. The degree to which the defences that were observed on the proposed development site in 1987 survived the subsequent construction of the Riverside Medical Practice building, and prior to that the construction of the Frankwell Footbridge, is unclear at present and subsequently the impact that the groundworks for the new park, particularly for the podium and adjacent lift, would have on the defences is also unclear. The report on the salvage recording exercise that was undertaken in 1987 refers to them having been partially removed prior to reburial. This implies that they may survive at depth, but this is likely to be below the depth of c. 1.25m of the current surface at which they were found to survive at that date.
- 6.3.6 During the application, it has been agreed between the council archaeologist and Applicant's archaeologist that, as an initial measure, an updated Archaeological Mitigation Strategy (to be secured by a pre-commencement condition) shall be submitted to the LPA and will include a trial trenching evaluation of the areas of the proposed

development site that are considered to have the highest potential. The trenches will be of sufficient size and design to enable deposits below 1.25m to be fully and safely evaluated, to assess their character, extent, date, and significance. Thereafter, the results will inform the approach to subsequent phases of archaeological mitigation, including the need for, and feasibility of, preserving remains in situ. It is considered that subject to a condition which secures a Written Scheme of Investigation (WSI) and the updated Archaeological Mitigation Strategy, any potential harm to the Civil War defences would be sufficiently mitigated.

- 6.3.7 The design and landscaping of the park and indicated hard surfacing/external wall materials which the Design & Access Statement outlines would refer to the geodiversity of the area (to be secured by condition) and would enable the park to enhance designated and non-designated heritage assets. The provision of open space would provide the public with an opportunity to spend time and enjoy nearby designated and non-designated heritage assets in a way that existing site arrangements do not allow. The proposed meanwhile uses would animate the site ahead of latter developments indicated on the masterplan and further deepen the public benefits associated with the application. It is concluded that the identified harms to heritage assets would, subject to conditions, be less than substantial and these would be outweighed by the public benefits that would accrue from the provision of high-quality public realm and landscaping improvements in an area which is currently detrimental to the character of the Conservation Area and the setting of designated and non-designated heritage assets. As such it is considered that the tests as set out in the NPPF are met and in particular paragraph 208 in that where a development proposal will lead to less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against the public benefits of the proposal including, where appropriate, securing its optimum viable use.
- 6.4 **Noise, Air Quality and Residential Amenity impacts**
- 6.4.1 The proposed development is within the Shrewsbury No.3 AQMA (Air Quality Management Area) declared for exceeding the annual objective level (<40ug/m<sup>3</sup>) for Nitrogen Dioxide (NO<sub>2</sub>). The key exceedance is currently focused outside Shrewsbury Railway Station.
- 6.4.2 During the application, a revised air quality assessment has been submitted which the Council's Environmental Protection Team assessed to be acceptable for the scope of this application and concluded that that there would be no significant effects on local air quality due to the proposed development. A Construction Environmental Management Plan (CEMP) condition would be imposed to manage dust emissions. Confirmation of the routing of vehicles construction/demolition traffic to avoid the Railway Station area and the siting of vehicular access into the site would also have to be provided as part of discharging the CEMP.
- 6.4.3 A revised noise assessment has also been submitted which indicates that the noise and vibration impact from the demolition works and the construction of the park area is likely to be above the Lowest Observed Adverse Effect Level (LOAEL) but below the Significant Observed Adverse Effect Level (SOAEL). The revised noise assessment is based on the following assumptions:
- 2.4m solid timber hoarding will be constructed to the site boundary;
  - the existing building envelope directly facing the residential properties at Nexus Apartments would remain as long as practically possible to provide a noise barrier to the site;

- relocated the demolition and construction plant to be a more realistic approximately 30m from the sensitive receptors (i.e. 20m from the site boundary);
- the intensity of demolition plant has been revised to represent a *reasonable* worst-case scenario (i.e. reduction in on-time);
- and a crusher would be used and located as far away from noise sensitive receptors as practicable, reducing the excavator and dozer on-time; Additional mitigation measures would include;
- Temporary moveable screening to be deployed for specific activities or plant for further control on demolition noise.
- Temporary noise and vibration monitoring is proposed at locations representative of noise sensitive receptors to ensure compliance with noise limits. Details of monitoring strategy would be included in the CEMP.

6.4.4 The CEMP condition would require details of the proposed phasing of demolition to be submitted, a suitable noise barrier as well as confirmation of the access/egress routes from the site. A further condition would be added to ensure a noise management plan is submitted to the LPA before the use of the park and the commencement of any meanwhile uses so that sufficient mitigation measures are in place to protect the amenity of the nearby residential occupiers, particularly at the Nexus Apartment to the opposite side of Roushill. Subject to these two conditions, it is considered that the noise and air quality impacts would be acceptable and compliant with policy CS6 of the Core Strategy.

## 6.5 Contamination

6.5.1 The site has been identified as potentially contaminated land under the Council's Environmental Protection Act 1990, Part 2A responsibilities due to historic land use.

6.5.2 The Council's Environmental Protection team and the Environment Agency (EA) reviewed the Geotechnical and Geo-Environmental Desk Study regarding potential impacts to human health, controlled waters (EA only) and ground gas. No objection was raised though further investigation would be required due to gaps in available data (constraints posed by existing Shopping Centre). A pre-commencement condition would be imposed which requires a Site Investigation Report to be undertaken and submitted to the Council before any development commences. Further conditions relating to piling, restriction on the use of infiltration SuDS systems, submission of oil interceptor details and a compliance condition for the storage of oils, fuels or chemicals would be required. It is considered that these conditions would ensure contamination impacts can be controlled in accordance with CS6 of the Core Strategy.

## 6.6 Drainage and flood risk

6.6.1 Policy CS2 requires development to have regard to flood risk management and enables development appropriate to the flood risk. CS18 and MD2 expects that development will integrate measures for sustainable water management to reduce flood risk. The Council's Strategic Flood Risk Assessment (SFRA) outlines the strategic flood risk requirements and expectations for the Local Authority.

6.6.2 The site is not located within a groundwater SPZ, nor does it have any surface water bodies on-site. As the demolition and subsequent enabling works are within Flood Zone 3b of the River Severn, a comprehensive Flood Risk Assessment has been submitted. The proposal would see the demolition of units within the less vulnerable flood risk category.

6.6.3 The Sequential Test, as defined in Paragraph 162 of the NPPF, is to guide development

to areas at lowest risk of flooding. The LPA accept that the proposals can only be in the proposed location to support regeneration of this underused site in the town centre. No other sites are available that meet the requirements of the site i.e., form part of regeneration of the town centre and therefore there is no option to relocate the development to an area of lower flood risk. It is therefore considered that the proposed development meets the requirements of the Sequential Test.

- 6.6.4 The new park would be deemed classified as water compatible development in accordance with NPPF Annex 3: Flood risk vulnerability classification. Paragraph 79 of the NPPG is clear that water compatible development is considered compatible with Flood Zone 3 and Flood Zone 3b and therefore the Exception Test does not need to be applied for this development.
- 6.6.5 The EA acknowledge as does the LPA that the existing built footprint covers much of the site and should not be deemed functional floodplain post demolition. The existing built footprint area would form the baseline from which to calculate the current flood storage position, and that post development, there is the potential for this to be improved upon as part of flood risk reduction objectives. The FRA demonstrates that the current application would deliver a net increase in floodplain storage in comparison to the existing site at each 0.25m increment. It is the case that this increase in floodplain storage would be reduced if future development as shown on the illustrated masterplan is built out. The Applicant has submitted a Statement of Intent and discussed its content with the EA with the intention of showing that there however would be no loss of floodplain storage in comparison to the existing site layout in Winter 2023 if subsequent applications are permitted and constructed.
- 6.6.6 Rain gardens and planted filter margins have been incorporated into the park landscape in preference to traditional surface drainage such as gullies. The proposed features would help to attenuate surface water, provide storage for surface water within the filter material, and help to safeguard water quality.
- 6.6.7 In conclusion, the current application would not exacerbate flood risk at the site and subject to conditions recommended by the EA and the council's SUDS team would comply with the relevant policies of the Local Plan and NPPF.
- 6.7 **Highways**
- 6.7.1 It is considered that highway safety can be managed, and the impacts of the demolition and construction of the park including the movement of HGV and abnormal loads, can be adequately dealt with through a Construction Environmental Management Plan (CEMP) to be submitted and approved in writing by the Local Planning Authority. It is not considered that the transport, traffic, and parking impacts of the development would cause severe impacts on the safety of the local highway network.
- 6.8 **Ecology**
- 6.8.1 The Preliminary Ecological Appraisal and Preliminary Roost Assessment including Bat and Otter Surveys carried out by Arbtech (Updated October 2023) concluded buildings on site to have low and moderate roosting features. Further activity surveys were conducted which concluded the likely absence of roosting bats. No further surveys were recommended.
- 6.8.2 The River Severn is known to support otters and a 500m stretch of the river was surveyed for evidence of otter occupation. No evidence was found, and it was concluded

that there were limited areas for otter resting and are therefore considered absent from the section of the river that was surveyed. The development, as proposed, will not result in the loss of riparian habitats. A working method statement has been recommended with respect to otters to negate any low potential negative impact. This will be strictly adhered to and secured by planning condition.

6.8.3 The Council's ecology team were consulted and raised no objection. Biodiversity net gains at the site in accordance with the NPPF and CS17 would be required. The installation of bat boxes/integrated bat tubes and bird boxes would enhance the site for wildlife by providing additional roosting habitat which again would be secured by condition.

## 6.9 Trees

6.9.1 The application is accompanied by an arboricultural impact assessment which concludes that the proposed development requires the removal of 10no. trees and 2no. shrub groups to facilitate the proposed demolition and landscape works. The trees specified for removal as confirmed by the Tree Officer are predominantly of poor and low quality and owing to their size, condition and situation, the impact to public amenity is low to moderate in the short-term. It is considered that that the removal of these trees can be effectively mitigated for with new tree planting with a potential for significant long-term improvement as the new planting becomes established. A condition is recommended to safeguard retained trees and to protect the amenities of the local area and natural features in relation to tree retention and enhancement. With a suitably worded condition attached, the proposals comply with policies CS6 and CS17 of the Core Strategy and policy MD12 of the SAMDEV and the NPPF

## 6.10 Sustainability

6.10.1 As part of CS6 and to mitigate climate change through sustainable construction, all proposals are required to complete a sustainability checklist to accompany planning applications. CS19 requires applications for all types of development to include information about the management of waste during their construction and subsequent operation as part of the completion of the sustainability checklist. MD2 expects sustainable design and construction are employed as parts of developments.

6.10.2 The application is supported by a completed sustainability checklist which indicates that the development would meet all the requirements of the checklist that would be applicable. The submitted demolition statement further confirms that to minimise waste and maximise re-use of existing materials, *“an audit will be carried out of the properties by the contractor, identifying and quantifying all materials which have the potential to be recovered for re-use, reclaim or recycling as part of the demolition works. Emphasis will be put on those materials which may be of direct benefit to the redevelopment project or within the local community The demolition contractor will be encouraged to source opportunities as part of their contract works. Clean brickwork and concrete will be retained on site for re-use during future phases of the redevelopment”*. This approach would be deemed compliant with CS6, CS19 and MD2; the submission of an acceptable Site Waste Management Plan would be required to discharge the CEMP condition.

## 6.11. EIA Impact Assessment

6.11.1 A screening opinion for this application was requested under 23/04914/SCR. The LPA in its Screening Opinion dated 4<sup>th</sup> December 2023 concluded that the development was not EIA development, as whilst the development falls within the indicative thresholds of Category 10(b) of Schedule 2 of the Town and Country Planning (Environmental Impact



Assessment Regulations 2017, when assessed against Schedule 3 criteria it was concluded that no Environmental Impact Assessment was not required.

## **7.0 CONCLUSION**

7.1 The benefits of the proposed application are considered significant in bringing forward high-quality, accessible public realm that would enhance the landscaping and biodiversity of the town centre and the setting of nearby heritage assets. The principle of the development and the phased approach in accordance with the illustrative masterplan is accepted; the development has the potential to positively contribute to the delivery of wider investment, regeneration, and town centre management strategies. The development would comply with key aims of policies CS2 and CS15 which seek to regenerate this part of the town centre as well as aims of the Big Town Plan, the Smithfield Riverside Strategic Development Framework, the relevant policies of the emerging Local Plan and the NPPF with its focus on the reuse of brownfield land.

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

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

### **8.2 Human Rights**

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

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

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

### 8.3 Equalities

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

## 9.0 FINANCIAL IMPLICATIONS

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

## 10. Background

### Relevant Planning Policies

Central Government Guidance:

West Midlands Regional Spatial Strategy Policies:

Core Strategy and Saved Policies:

CS1 - Strategic Approach  
 CS2 - Shrewsbury Development Strategy  
 CS6 - Sustainable Design and Development Principles  
 CS7 - Communications and Transport  
 CS8 - Facilities, Services and Infrastructure Provision  
 CS13 - Economic Development, Enterprise and Employment  
 Economic Development, Enterprise and Employment  
 CS15 - Town and Rural Centres  
 CS16 - Tourism, Culture and Leisure  
 CS17 - Environmental Networks  
 CS19 - Waste Management Infrastructure  
 MD10A - Managing Town Centre Development  
 MD2 - Sustainable Design  
 MD8 - Infrastructure Provision  
 MD10A - Managing Town Centre Development  
 MD12 - Natural Environment  
 MD13 - Historic Environment  
 Settlement: S16 - Shrewsbury  
 National Planning Policy Framework

RELEVANT PLANNING HISTORY:

PREAPP/11/01119 Proposed redevelopment of existing Shopping Centre PREAIP 7th June 2011  
12/00409/EIA Re-development of Riverside Shopping Centre to include demolition of the Riverside Shopping Centre, Medical Practice, Nightclub, connecting structures to the Pride Hill Shopping Centre, connecting structures from Raven Meadows multi-storey car park to the Darwin Centre, removal of trees, part demolition and alterations to Raven Meadows multi-storey car park, construction of new shopping centre including department store and unit shops (Use Classes A1, A2, A3, A4 and A5), offices (Use Class B1), new bridging connections to Pride Hill and Darwin Centres, new undercroft car park, cycle parking, alterations to pedestrian entrance from bus station, partial alterations to the frontages of the Darwin and Pride Hill Centres, servicing arrangements, vehicular access and associated landscaping and engineering works GRANT 21<sup>st</sup> September 2012

23/02123/FUL Building clearance, asbestos removal and partial demolition of Units 2, Units 44-48, and the pedestrian walkway canopy to make access for a geo-environmental ground investigation GRANT 31st July 2023

23/04914/SCR Screening Opinion for demolition of the Riverside Shopping Centre, walkways/bridges between the centre, Raven Meadows car park and Pride Hill Shopping Centre and enabling works to facilitate future development EAN 5th December 2023

23/05402/FUL Demolition of the Riverside Shopping Centre and related activity, enabling works including boundary wall and the formation of a new public park following demolition, to include pocket gardens, event space and amphitheatre, accessible ramp, lift and staircase, flood attenuation and temporary meanwhile uses across the Site. PDE

SA/92/0381 Refurbishment and upgrading of existing centre including extension and alteration to Pride Hill link, new first floor pedestrian link to Frankwell footbridge, conversion of existing north mall to two storey unit and replacement of existing roof and canopy covering. For Royal Insurance Asset Management on behalf of Royal Life Insurance Ltd. PERCON 27th May 1992

SA/84/0832 Part demolition of nos. 4, 6A and 7 Pride Hill, demolition of Charles Clark Garage; the Beaconsfield Club, MEB sub station. Demolition of Lloyds Bank Chambers, Roushill Bank. All in connection with redeveloping to provide major retail store and 23 retail units with ancillary services, office space and alterations to and formation of new vehicular and pedestrian access. (Part Riverside Centre Raven Meadows Shrewsbury) PERCON 20th December 1985

SA/84/0346 Car park to rear sites of Charles Clarke and Son Garage, Beaconsfield Club, Police Station, part Riverside Centre, Raven Meadows, Shrewsbury - Retail development to include part demolition to provide major store and 35 shop units with ancillary service and office space and alterations to and formation of new vehicular and pedestrian accesses. (Amended plans received 18/5/84). REFUSE 21st June 1984

SA/92/0744 Provision of glazed canopy and refurbishment to existing link bridge to provide covered access between Riverside Centre, the multi-storey car park and the Charles Darwin Centre. For Royal Insurance Asset Management. PERCON 16th September 1992

SA/76/0729 Construction of a footbridge across the River Severn from Frankwell Car Park to Riverside Shopping Centre. NOOBJC 20th October 1976

SA/82/1010 Erection of a 3 storey building to provide 20 no. shopping units with pedestrian access only off the Frankwell/Riverside shopping centre footbridge. PERCON 5th July 1983

SA/86/0577 Provision of covered walkways linking Riverside Shopping Centre with existing multi-storey car park and new shopping development, together with associated paving, landscaping works and highway modifications. PERCON 31st July 1986

SA/86/0408 Relocation of office accommodation and siting of new items of plant. PERCON 3rd July 1986

SA/86/0270 Formation of temporary "town walk" to be used during the construction of John Laing Developments Ltd Shopping Development until the permanent town walk is complete. PERCON 8th May 1986

SA/85/0508 Development and redevelopment including demolition of 20/22 Pride Hill to provide retail shopping, storage and servicing, together with car parking and bus station, highway improvements to Raven Meadows to provide bus land together with related highway improvements to junction of Raven Meadows with Smithfield Road and formation of new vehicular and pedestrian accesses. PERCON 8th August 1986

11. Additional Information

View details online: <http://pa.shropshire.gov.uk/online-applications/applicationDetails.do?activeTab=summary&keyVal=S5MDB9TDM6R00>

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 Chris Schofield
Local Member  Cllr Nat Green
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. Prior to commencement of each phase of the archaeological work as identified by the 2012 Archaeological Mitigation Strategy prepared by EDP, the applicant (or their agent or successors in title) shall first have submitted to, and agreed in writing with, the Local Planning Authority a Written Scheme of Investigation (WSI). This will detail the archaeological work and how this work will be undertaken with regard to the proposed site works (demolition and construction) in addition to setting out a post excavation programme to include timescales and publication and archiving details. The fieldwork and subsequent reporting will be monitored by the local authority's archaeological advisor who will sign off upon satisfactory completion.

When the first WSI is prepared for the evaluation trenches, the applicant shall update the Archaeological Mitigation Strategy written for the application in 2012, and submit this to the Local Planning Authority for approval. Once agreed, this document will provide a framework for the archaeological evaluation of the site, review and assessment of results, mitigation during demolition and construction, and analysis and publication following completion of each phase of the archaeological work.

Reason: The site is known to hold archaeological interest in accordance with Policy MD13 of the Shropshire SAMDev Plan and Paragraph 211 of the NPPF (Dec 2023).

4. No demolition or construction work shall commence until a Construction Management Plan (CMP), has been prepared for each phase and has been submitted to and approved in writing by the Local Planning Authority; all measures which form part of the scheme shall be strictly adhered to throughout the period of demolition and construction. The CMP shall detail site specific measures to control and monitor impacts arising and include as a minimum:

- Procedures to ensure all works adhere to Best Practicable Means (BPM), to reduce noise (including vibration) to a minimum, with reference to the general principles contained in British Standard BS5228: 2009 'Code of practice for noise and vibration control on construction and open sites, Parts 1 and 2'.
- Procedures to ensure Best Practicable Means to reduce dust emissions.

- Phasing plan for the demolition and construction works
- Demolition/construction access/haulage routes, parking and traffic
- Routing of construction traffic
- Signing and adequate vehicle and pedestrian controls
- Working hours and restrictions
- Wheel washing facilities
- Proposed monitoring, monitoring locations and action trigger levels for noise, vibration and dust
- A procedure for dealing with complaints.
- A procedure for notifying occupiers who are likely to be impacted from works.
- Staff training to cover principles of Best Practicable Means (BPM) relating to all site activities.
- Measures to control the presence of asbestos
- a Site Waste Management Plan (SWMP) to contain details on the estimated volumes of demolition waste, to make provision for the recovery and re-use of salvaged materials wherever possible, and identify appropriate facilities for where the individual waste streams are anticipated to be received.
- An appropriately scaled plan showing 'Wildlife/Habitat Protection Zones' where construction activities are restricted, where protective measures will be installed or implemented;
- Requirements and proposals for any site lighting required during the construction phase;
- A timetable to show phasing of construction activities to avoid harm to biodiversity features (e.g. avoiding the bird nesting season);
- Details of protective measures (both physical measures and sensitive working practices) to avoid impacts during construction;
- The times during construction when an ecological clerk of works needs to be present on site to oversee works;

Reason: In the interests of highway and pedestrian safety, the amenity of the occupants of surrounding sensitive properties and maintaining servicing to properties affected by the works, and to protect features of recognised nature conservation importance, in accordance with MD12, CS17 and section 180 of the NPPF.

5. Notwithstanding the details that have been submitted, the Park hereby approved shall not commence until the final landscape details have been submitted and approved by the Local Planning Authority. The details shall include details of trees, planting, hard surfacing materials, site levels, external lighting, a space-sharing strategy, public seating and details of all gradients, ramps and steps within publicly accessible areas of the development.

Soft landscaping works shall include: tree plans, planting plans (at a scale not less than 1:100), written specification of planting and cultivation works to be undertaken and schedules of plants, noting species, plant sizes and proposed numbers / densities and an implementation programme. The hard surfacing details shall include details of planters and samples showing the texture and colour of the materials to be used and information about their sourcing/manufacturer. The lighting details shall include detailed drawings of the proposed lighting columns and fittings, information about the levels of luminance and any measures for mitigating the effects of light pollution. The landscaping scheme shall also include details of proposed finished site levels, boundary treatment and minor structures (such as play equipment, furniture, refuse storage, signs and lighting).

Any trees or plants indicated on the approved scheme which, within a period of five years from the date of planting, die, are removed or become seriously damaged or diseased shall be replaced during the next planting season either with the same tree/plant as has previously been approved, or with other trees or plants of a species and size that have first been approved in writing by the Local Planning Authority.

The development shall thereafter be carried out in accordance with the approved details.

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

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

- a) Description and evaluation of the features to be managed;
- b) Ecological trends and constraints on site that may influence management;
- c) Aims and objectives of management;
- d) Appropriate management options for achieving aims and objectives;
- e) Prescriptions for management actions;
- f) Preparation of a works schedule (including an annual work plan and the means by which the plan will be rolled forward annually);
- g) Personnel responsible for implementation of the plan;
- h) Detailed monitoring scheme with defined indicators to be used to demonstrate achievement of the appropriate habitat quality;
- i) Possible remedial/contingency measures triggered by monitoring;
- j) The financial and legal means through which the plan will be implemented.

The plan shall be carried out as approved.

Reason: To protect and enhance features of recognised nature conservation importance, in accordance with MD12, CS17 and section 180 of the NPPF.

7. No demolition or construction work shall commence until a scheme for the protection of the retained trees, in accordance with BS 5837:2012, including a tree protection plan(s) (TPP) and an arboricultural method statement (AMS) has been submitted to and approved in writing by the Local Planning Authority. The method statement shall include, but not be limited to: i) Removal of existing structures and hard surfacing ii) Installation of temporary protection barriers and ground protection iii) Installation of new (no dig) hard surfacing - materials, design constraints and implications iv) Preparatory works for new landscaping v) Tree protection plan vi) Any pruning works to trees to be retained that are necessary to complete the development. The development shall thereafter be carried out in accordance with the approved details.

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

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

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

9. No demolition or construction work shall commence until a Flood Warning and Evacuation Plan has been submitted to and approved in writing by the Local Planning Authority. The Plan shall include full details of proposed awareness training and procedure for evacuation of persons and property (including vehicles/machinery), training of staff; and method and procedures for timed evacuation. It shall also include a commitment to retain and update the Plan and include a timescale for revision of the Plan. The Flood Warning and Evacuation Plan shall remain in place for the lifetime of the development.

Reason: To minimise the flood related danger to people, and associated pollution risk, in the flood risk area.

10. No development, or phasing as agreed below, shall take place until the following components of a scheme to deal with the risks associated with contamination of the site, including any historical tanks, are submitted to and approved, in writing, by the planning authority

1) A site investigation scheme based Geotechnical and Geo-Environmental Desk Study - Roushill Park Reference: SRS-ARP-RP-XX-RP-CG-0001, Ove Arup & Partners Limited November 2023, to provide information for a detailed assessment of the risk to all receptors that may be affected, including those offsite.

2) a. The site investigation results and the detailed risk assessment (1) and, based on these, an options appraisal and remediation strategy, if necessary, of the remediation measures required and how they are to be undertaken.

2) b. If a cut off wall is proposed during construction works, we would expect to see a Hydrogeological Impact Assessment (HIA) supported by modelling. This shall assess hydraulic performance and potential risks. Any risk identified will require mitigation measures to be submitted and agreed in writing, in addition to monitoring (if required).

3) A verification plan providing details of the data that will be collected in order to demonstrate that the works set out in (2) are complete and identifying any requirements for longer-term monitoring of pollutant linkages, maintenance and arrangements for contingency action. This should include any proposed phasing of demolition or commencement of other works.

4) Prior to occupation of any part of the development (unless in accordance with agreed phasing under part 3 above) a verification (validation) report demonstrating completion of the works set out in the approved remediation strategy (2 and 3). The report shall include results of any sampling and monitoring. It shall also include any plan (a "long-term monitoring and maintenance plan") for longer term monitoring of pollutant linkages, maintenance and arrangements for contingency action and for the reporting of this to the Planning Authority.

The development shall thereafter be carried out in accordance with the approved details.

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.

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

11. Prior to any meanwhile uses within the red line area as shown on location plan B040582-TTE-00-ZZ-DR-CH-001 REV P01 commencing, a Meanwhile Use Strategy shall be submitted to and approved by the Local Planning Authority. The strategy shall include details of: i) Use; ii) Landscaping; iii) Management and Maintenance; iv) Security; v) Boundary Treatment; vi) Access. The strategy shall include details relating to the removal of the hoardings as approved by condition 16. The meanwhile plots shall be used, maintained and enclosed in accordance with the approved strategy.

Reason: In the interest of the amenity of the occupants of surrounding sensitive properties and to safeguard the amenities of the local area.



12. Prior to the use of Roushill Park and any meanwhile uses within the red line area as shown on location plan B040582-TTE-00-ZZ-DR-CH-001 REV P01 commencing, a noise management plan shall be submitted to and approved by the Local Planning Authority. The measures identified and approved by the LPA shall be implemented and maintained at all times thereafter in accordance with the approved plan.

This plan shall include:

- a) Statement detailing potential noise sources and the noise mitigation measures,
- b) details for complaints monitoring and handling protocol to verify and reduce noise levels where applicable.

Reason: In the interest of the amenity of the occupants of surrounding sensitive properties.

13. Prior to first use of the park, the makes, models and locations of wildlife 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 15 external woodcrete bat boxes or integrated bat bricks, suitable for nursery or summer roosting for small crevice dwelling bat species.
- A minimum of 10 artificial nests, of either integrated brick design or external box design, suitable for starlings (42mm hole, starling specific), sparrows (32mm hole, terrace design), house martins (house martin nesting cups), swallows (swallow nesting cups) and/or small birds (32mm hole, standard design).
- A minimum of 15 artificial nests, of integrated brick design, suitable for swifts (swift bricks).
- A minimum of 3 hedgehog domes (standard design) suitable for resting hedgehogs
- A minimum of 5 invertebrate bricks/hotels (standard design) suitable for pollinators.

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 be installed prior to the first use of the park and 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.

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

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

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

15. Prior to the above ground works commencing, samples and/or details of 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.

16. Prior to the erection of the hoarding and notwithstanding the detail shown on plan B040582-TTE-00-ZZ-DR-CH-003 REV P01, details of the materials, design, colour and final appearance of the hoarding 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.

17. Prior to the first use of Roushill Park as shown on approved plan 8436-PL-GA-101 REV 01 ROUSHILL PARK - GENERAL ARRANGEMENT, a park management, maintenance and access plan must first be submitted to and approved in writing by the Local Planning Authority. The park must be managed and maintained according to the agreed plan for the lifetime of the development. The park shall be kept open for use by members of the public at all times in perpetuity and the plan shall include detail showing how this will be achieved.

Reason: To safeguard the amenities of the local area, to protect the features of the development that contribute towards this and that are important to the appearance of the development, and to ensure the benefits of the open space can be enjoyed by the public in perpetuity.

18. Prior to commencement of piling works or any other foundation designs using penetrative methods, details of the penetrative method shall be 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 protect ground and surface waters ('controlled waters' as defined under the Water Resources Act 1991) and to minimise any potential impact upon adjacent land users and residents.

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

19. Any facilities for the storage of oils, fuels or chemicals shall be sited on impervious bases and surrounded by impervious bund walls. The volume of the bunded compound shall be at least equivalent to the capacity of the tank plus 10%. If there is multiple tankage, the compound shall be at least equivalent to the capacity of the largest tank, vessel or the combined capacity of interconnected tanks or vessels plus 10%. All filling points, associated pipework, vents, gauges and sight glasses must be located within the bund or have separate secondary containment. The drainage system of the bund shall be sealed with no discharge to any watercourse, land or underground strata. Associated pipework shall be located above ground and protected from accidental damage. All filling points and tank/vessels overflow pipe outlets shall be detailed to discharge downwards into the bund.

REASON: To protect ground and surface waters ('controlled waters' as defined under the Water Resources Act 1991).

20. Prior to being discharged into any watercourse, surface water sewer or soakaway system, details of an oil interceptor designed and constructed to have a capacity and details compatible with the site being drained shall be submitted to and approved in writing by the Local Planning Authority. All surface water drainage from parking areas and hardstandings shall be passed through the interceptor;

roof water shall not pass through the interceptor. The interceptor shall thereafter be maintained for the lifetime of the development.

REASON: To protect ground and surface waters ('controlled waters' as defined under the Water Resources Act 1991).

21. All works to the site shall occur strictly in accordance with the mitigation and enhancement measures regarding bats, birds and otters as provided in Table 13 of the Preliminary Ecological Appraisal and Preliminary Roost Assessment including Bat and Otter Surveys (Arbtech, updated October 2023).

Reason: To ensure the protection of and enhancements for bats and Otters, which are European Protected Species and birds which are protected under Section 1 of the 1981 Wildlife and Countryside Act (as amended).

22. If during development, contamination not previously identified, is found to be present at the site then no further development shall be carried out until the developer has submitted, and obtained written approval from the Local Planning Authority, a Method Statement for remediation. The Method Statement must detail how this unsuspected contamination shall be dealt with. A verification (validation) report demonstrating completion of the works set out in the method statement shall be submitted to and approved in writing by the Local Planning Authority. The report shall include results of any sampling and monitoring. It shall also include any plan (a "long-term monitoring and maintenance plan") for longer term monitoring of pollutant linkages, maintenance and arrangements for contingency action and for the reporting of this to the Local Planning Authority. The development shall thereafter be carried out in accordance with the approved details.

REASON: To ensure that any unexpected contamination is dealt with and the development complies with approved details in the interests of protection of ground and surface waters ('controlled waters' as defined under the Water Resources Act 1991).

### **Informatives**

#### 1. Bats informative

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

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

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

Breathable roofing membranes (also called non-woven textiles) should not be used as it produces extremes of humidity and bats can become entangled in the fibres. Traditional 1F bitumen felt that is of hessian matrix construction should be chosen instead (BCT, 2020).

### Nesting birds informative

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

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

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

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

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

### Otters informative

Otters are protected under The Conservation of Habitats and Species Regulations 2017 and the Wildlife and Countryside Act 1981 (as amended).

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

On sites close to river banks, alongside streams and around pools, otters may occasionally be encountered and contractors should be vigilant when working on site. No night-time lighting should be used in such locations and trenches and open pipework should be closed overnight.

If any evidence of otters (holts, scats, footprints or direct sightings) are discovered then the development work must immediately halt and an appropriately qualified and experienced ecologist and Natural England must be contacted (0300 060 3900) for advice. The Local Planning Authority should also be informed.

### General site informative for wildlife protection

Widespread reptiles (Adder, Slow Worm, Common Lizard and Grass Snake) are protected under the 1981 Wildlife and Countryside Act (as amended) from killing, injury and trade and are listed as Species of Principle Importance under Section 41 of the 2016 NERC Act. 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 2006 Natural Environment and Rural Communities Act. Reasonable precautions should be taken during works to ensure that these species are not harmed.

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

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

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

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

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

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

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

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

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

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

2. We advise you contact National Permitting Support (NPS) team to confirm if any of the activities associated with the development require a permit. Any dewatering activities that require an abstraction licence will be subject to Ground Investigation Consent (GIC) first. GWCL are responsible for GIC applications, and this will require a WR32 form and a Water Features Survey (WFS) as a minimum. Further information can be found at: <https://www.gov.uk/government/publications/apply-for-consent-to-investigate-a-groundwater-source/apply-for-consent-to-investigate-a-groundwater-source>. Future SI should include the installation of boreholes to an appropriate depth as discussed above and routine gas and groundwater monitoring for the appropriate suite. The extent of contamination should be confirmed as well as any vertical leaching that could have occurred.

3. The CL:AIRE Definition of Waste: Development Industry Code of Practice (version 2) provides operators with a framework for determining whether or not excavated material arising from site during remediation and/or land development works are waste or have ceased to be waste. Under the Code of Practice:

- excavated materials that are recovered via a treatment operation can be re-used on-site providing they are treated to a standard such that they are fit for purpose and unlikely to cause pollution
- treated materials can be transferred between sites as part of a hub and cluster project
- some naturally occurring clean material can be transferred directly between sites

Developers should ensure that all contaminated materials are adequately characterised both chemically and physically in line with British Standard BS EN 14899:2005 'Characterisation of Waste - Sampling of Waste Materials - Framework for the Preparation and Application of a Sampling Plan' and that the permitting status of any proposed treatment or disposal activity is clear. If in doubt, the Environment Agency should be contacted for advice at an early stage. If the total quantity of hazardous waste material produced or taken off-site is 500kg or greater in any 12 month period, the developer will need to register with us as a hazardous waste producer.

We recommend that developers should refer to:

- the position statement on the Definition of Waste: Development Industry Code of Practice
  - GOV.UK <https://www.gov.uk/topic/environmental-management/waste>
- Contaminated soil that is (or must be) disposed of is waste. Therefore, its handling, transport, treatment and disposal are subject to waste management legislation, which includes:
- Duty of Care Regulations 1991
  - Hazardous Waste (England and Wales) Regulations 2005
  - Environmental Permitting (England and Wales) Regulations 2016
  - The Waste (England and Wales) Regulations 2011

Treating waste may require an exemption or an environmental permit. Please contact our National Customer Contact Centre (Tel: 03708 506 506) for further information and guidance prior to commencing any treatment.

4. Developers should incorporate pollution prevention measures to protect ground and surface water. Previous Pollution Prevention Guidance maintained by the Environment Agency has been withdrawn but is still available in the national archives at:

<https://www.gov.uk/government/collections/pollution-preventionguidance-ppg>

We would refer you to the latest Pollution Prevention Guidance targeted at specific activities, available at: <https://www.gov.uk/guidance/pollution-prevention-for-businesses>

5. It is recommended that developers refer to the Environment Agency's guidance note: Sites Affected by Land Contamination (West Midlands Area) for further information.

# Agenda Item 8

## SCHEDULE OF APPEALS AS AT COMMITTEE 5<sup>th</sup> March 2024

<b>LPA reference</b>	23/02227/FUL
<b>Appeal against</b>	Refusal
<b>Committee or Del. Decision</b>	Delegated
<b>Appellant</b>	Mr Louis Tomkinson
<b>Proposal</b>	Construction of single local needs dwelling and garage including the provision of access
<b>Location</b>	West of Orchard Cottage 6 Sandy Lane Pell Well Market Drayton
<b>Date of appeal</b>	22.09.2023
<b>Appeal method</b>	Written Representations
<b>Date site visit</b>	
<b>Date of appeal decision</b>	
<b>Costs awarded</b>	
<b>Appeal decision</b>	

<b>LPA reference</b>	23/02512/BHE
<b>Appeal against</b>	Refused Prior Approval of Permitted Development
<b>Committee or Del. Decision</b>	Delegated
<b>Appellant</b>	Mr Richard Hill
<b>Proposal</b>	Application for prior approval under Schedule 2 Part 1, Class AA of the Town & Country Planning (General Permitted Development) (England) Order 2015 (as amended) for the erection of one additional storey
<b>Location</b>	Fenemere Lane Farm Fenemere Baschurch
<b>Date of appeal</b>	6.01.2024
<b>Appeal method</b>	Written Representations
<b>Date site visit</b>	
<b>Date of appeal decision</b>	
<b>Costs awarded</b>	
<b>Appeal decision</b>	

<b>LPA reference</b>	23/00765/FUL
<b>Appeal against</b>	Appeal Against Refusal
<b>Committee or Del. Decision</b>	Delegated Decision
<b>Appellant</b>	Minster Care
<b>Proposal</b>	Proposed demolition of existing care home wing and proposed new build care home wing
<b>Location</b>	Bicton Heath House Knowsley Drive Bicton Heath Shrewsbury
<b>Date of appeal</b>	26.07.2023
<b>Appeal method</b>	Written Representations
<b>Date site visit</b>	
<b>Date of appeal decision</b>	
<b>Costs awarded</b>	
<b>Appeal decision</b>	

<b>LPA reference</b>	21/07709/ENF
<b>Appeal against</b>	That planning permission should be granted for what is alleged in the notice.
<b>Committee or Del. Decision</b>	
<b>Appellant</b>	Belford Homes Ltd
<b>Proposal</b>	Without Planning Permission: Operational development in the form of the erection of a brick wall adjacent to a highway at a height exceeding 1 metre in the location marked with an X on the attached plan
<b>Location</b>	6 Tudor Close Market Drayton Shropshire
<b>Date of appeal</b>	25.11.2023
<b>Appeal method</b>	Written Representations
<b>Date site visit</b>	
<b>Date of appeal decision</b>	
<b>Costs awarded</b>	
<b>Appeal decision</b>	



## APPEALS DETERMINED

<b>LPA reference</b>	23/00873/FUL
<b>Appeal against</b>	Refusal
<b>Committee or Del. Decision</b>	Delegated
<b>Appellant</b>	Connexus Homes Ltd
<b>Proposal</b>	Demolition of two-thirds of Edinburgh House and change of use to the remainder (the former Police Station element) to create two floors of one and two bedroom apartments (10 apartments in total, across ground and first floors) with second floor remaining as office space (Class E) and erection of 18No dwellings on land at Edinburgh House
<b>Location</b>	Edinburgh House New Street Wem
<b>Date of appeal</b>	01.06.2023
<b>Appeal method</b>	Written Representations
<b>Date site visit</b>	09.01.2024
<b>Date of appeal decision</b>	24.01.2024
<b>Costs awarded</b>	<b>REFUSED</b>
<b>Appeal decision</b>	<b>ALLOWED</b>

<b>LPA reference</b>	23/01995/FUL
<b>Appeal against</b>	Refusal
<b>Committee or Del. Decision</b>	Delegated
<b>Appellant</b>	Mr Chadwick
<b>Proposal</b>	Proposed extension and garage
<b>Location</b>	3 Birchwood Grove Higher Heath
<b>Date of appeal</b>	16.08.2023
<b>Appeal method</b>	Fast Track Appeal
<b>Date site visit</b>	16.01.2024
<b>Date of appeal decision</b>	29.01.2024
<b>Costs awarded</b>	
<b>Appeal decision</b>	<b>DISMISSED</b>

<b>LPA reference</b>	23/01504/FUL
<b>Appeal against</b>	Refusal
<b>Committee or Del. Decision</b>	Delegated
<b>Appellant</b>	Mr & Mrs Good
<b>Proposal</b>	Proposed Change of use of part of existing curtilage from agricultural field to residential use and Proposed extensions
<b>Location</b>	Northwood Cottage The Hill Grinshill
<b>Date of appeal</b>	17.08.2023
<b>Appeal method</b>	Written Representations
<b>Date site visit</b>	30.01.2024
<b>Date of appeal decision</b>	13.02.2024
<b>Costs awarded</b>	
<b>Appeal decision</b>	<b>ALLOWED</b>





# Appeal Decision

Site visit made on 9 January 2024

by **S Dean MA MRTPI**

an Inspector appointed by the Secretary of State

**Decision date: 24 January 2024**

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**Appeal Ref: APP/L3245/W/23/3323422**

**Edinburgh House, New Street, Wem, Shropshire SY4 5DB**

- 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 Connexus Homes Ltd against the decision of Shropshire Council.
  - The application Ref 23/00873/FUL, dated 24 February 2023, was refused by notice dated 25 April 2023.
  - The development proposed is described as “the proposed demolition of two-thirds of Edinburgh House and change of use to the remainder (the former Police Station element) to create two floors of one and two bedroom apartments (10 apartments in total, across ground and first floors) with second floor remaining as office space (Class E); and construction of 18 new dwellings on land at Edinburgh House, Wem.”
- 

## Decision

1. The appeal is allowed and planning permission is granted for the demolition of two-thirds of Edinburgh House and change of use to the remainder (the former Police Station element) to create two floors of one and two bedroom apartments (10 apartments in total, across ground and first floors) with second floor remaining as office space (Class E); and construction of 18 new dwellings on land at Edinburgh House, New Street, Wem, Shropshire SY4 5DB in accordance with the terms of the application, Ref 23/00873/FUL, dated 24 February 2023, subject to the conditions in the Schedule attached to this Decision.

## Applications for costs

2. An application for costs was made by Connexus Homes Ltd against Shropshire Council. This application is the subject of a separate Decision.
3. An application for costs was then made by Shropshire Council against Connexus Homes Ltd. This application is also the subject of a separate Decision.

## Preliminary Matters

4. Since their decision on the application, the Council has confirmed that it no longer wishes to defend its third reason for refusal. The information submitted in support of the appeal is now considered acceptable to them, subject to a contribution towards visitor management mitigation measures at the Cole Mere Ramsar site.
5. Further to the exchange of Final Comments, the National Planning Policy Framework (the Framework) was revised in December 2023. Both the Council and appellant were provided with the opportunity to comment on the updates made to it, and I have taken it into account in my decision below.

## **Main Issues**

6. Having regard to the above and the decision of the Council, the main issues are whether or not the proposal (i) would provide sufficient on-site open-space, (ii) would have an unacceptable landscape effect, notably with regard to trees on the site, (iii) would provide suitable living conditions for future occupiers with specific regard to noise, and (iv) justifies the loss of a protected employment site.

## **Reasons**

### *Open space*

7. Policy CS6 of the Shropshire Local Development Framework Adopted Core Strategy, March 2011 (the Core Strategy) sets out sustainable design and development principles, and seeks amongst other things to ensure that development is designed to a high quality, respecting and enhancing local distinctiveness, and which, notably for this decision, safeguards residential and local amenity with particular reference to the provision and quality of open space.
8. Policy MD2 of the Shropshire Council Site Allocations and Management of Development Plan, Adopted Plan, December 2015 (the SAMDev Plan) builds on Policy CS6 with more detailed requirements on design, character, amenity, sustainability and open space. For proposals of more than twenty dwellings, it sets out a minimum requirement of 30sqm of open space per person subject to various additional requirements. Although neither the Council nor the appellant have quantified the exact amount by which the proposal falls short of this requirement, it is common ground that a shortfall does exist.
9. Despite this, the houses proposed in the application all have private gardens, there is some other open space within the site, and there is a well-equipped large park with a broad mixture of formal and informal spaces and equipment for all ages a very short walk from the site. Given the proposed layout of the site, the flats, occupants of which are likely to have the greatest need or desire to use public open space (having no private open space of their own) are almost within sight of the park, and the furthest houses are a very short, easy walk from it. As such, it is easily accessible and provides the proposal with high quality open space, sport and recreation facilities which would contribute to the health and wellbeing of future occupants.
10. As noted, the development plan conflict is limited to the numerical requirement in the SAMDev Plan policy. I note the appeal decision which the Council has directed me to and provided a copy of<sup>1</sup>. There are some parallels with this case, and whilst consistency in decision making is important and like cases should be decided in a like manner, to my mind there are sufficient distinctions between that case and this (not least that it was a proposal for retirement apartments with balconies and this is for flats and houses with gardens), such that it does not, and cannot reasonably, bear on my interpretation of the acceptability of the provision of open space in this proposal.

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<sup>1</sup> Appeal Ref: APP/L3245/W/22/3303317

11. I also note that the Inspector in that case highlighted that compliance with the numerical requirement of Policy MD2 was part of a broader planning judgement. Given that, and given the circumstances of this proposal, where all of the houses have private gardens, and where the apartments are closest to the well-provisioned and easily accessible public open space nearby, I am satisfied that despite failing to meet the numerical requirement of 30sqm per-person on-site, the proposal meets the overarching requirements of both Policy CS6 and Policy MD2 to ensure that development will be designed to a high quality using sustainable design principles and that it appropriately considers the design of landscaping and open space holistically, linking the site to its surroundings functionally and visually.
12. In considering this matter, I also note the need to make efficient and effective use of land, particularly brownfield land in a sustainable location such as this with alternative facilities extremely close by.
13. As such, I find no conflict with Policy CS6 of the Core Strategy, and only minor conflict with the numerical requirement of Policy MD2 of the SAMDev Plan. However, I do not consider that the limited conflict I have identified outweighs the overall compliance of the proposal with the qualitative measures in the relevant policies or the overarching requirements of the development plan. Having regard therefore to the specific circumstances of this proposal, its surroundings and its relationship to them, I find that it would provide sufficient on-site open-space.

#### *Landscape effects*

14. The Council alleges a lack of detailed information around landscape effects and potential mitigation measures, as well as issues around detailed design and implementation of any planning permission on the site. I note their concerns over weight-loadings and access for waste collection, but the proposal was accompanied by a Transport Assessment which showed relevant vehicle tracking, and waste and recycling storage areas are shown on the drawings.
15. I turn now to landscape effects relating to the natural environment including trees and other landscaping. Through a combination of the Tree Constraints Plan and the Proposed Site Plan, it is clear which existing trees are to be retained, and which are to be removed. The tree schedule includes an assessment of their condition.
16. At present, but for the limited number of trees around and within the site, it is largely built up; with the large existing office buildings and large areas of car parking. The proposal would break up this extensive built form, and in so doing, retain the most prominent and well-established trees on the site. A number of particularly prominent trees are not in fact within the appeal site area so would be unaffected.
17. Given the suggestion of, and agreement of the appellant to, a condition around approval and then implementation of a landscaping scheme, and a condition requiring compliance with plans which show retained trees, I am satisfied that the proposal would not have an unacceptable landscape effect, notably with regard to trees on the site. To my mind, it would instead achieve a better balance than at present between built and natural form, improving the overall character and appearance of the site and by extension, its immediate surroundings.

18. As such, the proposal would comply with Policies CS3, CS6 and CS17 of the Core Strategy, as well as with Policies MD2 and MD13 of the SAMDev Plan, which seek, amongst other things, to ensure that development proposals incorporate sustainable design elements and features, conserve and enhance the natural environment. The proposal would also comply with government policy in the Framework on achieving well-designed and beautiful places, and conserving and enhancing the natural environment.

#### *Living conditions*

19. The site is very close to Wem town centre, adjacent to a reasonably well-used road and near to other noise-generating uses. As such, it is subject to noise from traffic and those nearby uses. This is of course, no different to the existing dwellings on the same side of New Street or those opposite the site. Housing close to a road and other potentially noise-generating uses is not particularly unusual, especially in a location such as this, within an existing settlement.
20. In their submission, the appellant has assessed the noise from the road, school and nearby commercial uses. I note the concerns from the Council over road noise and the potential for noise disturbance from the nearby car valeting business. As the appellants state, this generally operates during working hours, when levels of noise associated with surrounding and nearby commercial and town-centre appropriate and adjacent uses would be expected to generate noise. At the time of my site visit, the business was busy, with jet washing and vacuuming taking place, but this noise was neither intrusive nor particularly noticeable when outside on the site. As such, I do not consider that noise from existing or potential surrounding commercial uses would harm the living conditions of future occupiers, given the acoustic design solutions proposed, the separation distances involved, and the intervening buildings.
21. Whilst I note the concerns of the Council over the acoustic solution proposed by the appellant to deal with road noise in particular, I do not consider that it would lead to unacceptable living conditions for future occupiers. As noted, housing close to roads is not unusual, and the appellants have proposed an acoustic design solution which addresses sources of noise, such that amenity levels would be protected, and suitable living conditions, for the context and location of the site, would be provided.
22. Whilst this may not be the Council's preferred solution, I consider that it is an appropriate one for a brownfield site in a location as sustainable as this one. I also note that what the Council's Environmental Protection team describe as not generally accepted is somewhat different to the position set out in the relevant development plan policies.
23. Taking all of that together, I do not find that the appellant has given insufficient consideration to potential noise issues or related acoustic design measures, in light of the detail of their submissions. I therefore find that the proposal would provide suitable living conditions for future occupiers with specific regard to noise, and would in that respect comply with Policy CS6 of the Core Strategy and Policy MD2 of the SAMDev Plan, which require, amongst other things, consideration of existing and future amenity value as well as the need for good, contextually appropriate design.

24. I also consider that the proposal accords with Framework requirements for achieving well-designed and beautiful places and that the proposed noise mitigation measures would accord with the agent of change principles set out in the Framework.

#### *Employment land*

25. The appeal site is a designated employment site, and as such, protected by Policy MD9 of the SAMDev Plan. That policy requires the loss of such sites to development to be justified by evidence of appropriate marketing over a sustained period in order to demonstrate that the land or premises are no longer viable. This information has not been provided, and as such, the proposal conflicts with that policy.

#### **Conditions**

26. The Council has suggested a number of conditions to be attached, should planning permission be granted. Having had regard to the requirements of the Framework and the PPG I have imposed standard conditions concerning commencement (1) and compliance with the submitted plans (2).

27. Condition 3 is necessary to ensure that the site is properly drained. Condition 4 ensures that any archaeological remains are properly investigated. Conditions 5, 6 and 8 are necessary to ensure that the completed development can be properly accessed, and condition 7 controls construction traffic. Conditions 9 and 10 ensure that natural environment factors are properly taken into account. Conditions 11, 13 and 14 are necessary to ensure the satisfactory appearance of the completed development, and condition 12 to ensure that construction activities do not harm the living conditions of occupiers of nearby properties.

28. The appellant has objected to the inclusion of Condition 15, which removes permitted development rights for the conversion of the remaining office space on the basis that it is unreasonable and unnecessary, not meeting the relevant tests. Whilst the Framework is clear that such conditions do not usually meet the reasonableness test, in this case, given the concern of the Council around the loss of office space generally, I consider that it is reasonable and necessary, and meets the tests as a whole. As noted in evidence, there is a process set out within the development plan by which that office space could be converted should it no longer be viable.

29. The appellant has confirmed in writing that they have no objection to the terms of the pre-commencement conditions proposed by the Council. It is necessary and reasonable that the information required by these conditions be provided prior to the commencement of development, as these are matters which cannot properly or reasonably be addressed following the commencement of the development.

30. I am therefore satisfied overall that the conditions I have imposed meet the tests in, and requirements of both the Framework and the PPG.

## **Other matters**

31. Although it did not find expression in their decision on the application, the Council did note concerns over the design and appearance of the proposal, particularly the houses within it, relative to the context to the site. However, given the detail set out in the Design and Access Statement, as well as my own observations of the form, style, character and appearance of the mixed context to the site, the existing buildings and their interrelationships, I am satisfied that the proposal is appropriate for its context. It does therefore comply with the requirements of the relevant development plan policies as well as government policy on achieving well-designed and beautiful places as set out in the Framework. Similarly, consultees have commented on the effect of the proposal on the setting of the adjacent Wem Conservation Area (the CA). For the same reasons as set out above, and indeed, because the proposal will replace an open area of car parking and an office building with houses in a contextually-appropriate design, the proposal would not harm the significance of the CA as a heritage asset.
32. The site lies within the indicative recreational catchment area of Cole Mere, part of the Midlands Meres and Mosses Phase 2 Ramsar site. As such, development of the site is considered likely to increase recreational pressure on the site and would therefore have a likely significant effect on the site, its features and lead to an adverse effect on its integrity. The Shropshire Council Cole Mere Management Plan 2020-2025 contains mitigation measures to address increased recreational pressure through visitor management. This takes the form of a financial contribution per-bedroom, secured through an obligation under section 106.
33. Subject to the payment of this contribution towards visitor management measures, it is considered that the proposal would not adversely affect the integrity of the Midlands Meres and Mosses Phase 2 Ramsar site. This conclusion is consistent with that of the Council in their Habitats Regulations Assessment submitted in response to the appeal.

## **Planning obligation**

34. I have had regard to the evidence, the relevant guidance in the Framework and considered whether the requirement for contributions towards the management of the Cole Mere Countryside Heritage Site as part of the Midlands Meres and Mosses Ramsar site, required by the Shropshire Council Cole Mere Management Plan 2020-2025 and securing the proposal as wholly affordable housing meets the tests set out in Regulation 122 of the Community Infrastructure Regulations 2010. I am satisfied that such a contribution would be necessary to make the development acceptable in planning terms, directly relates to the development and is fairly related in scale and kind to the development.
35. A signed and sealed obligation under section 106 of the Act, in the form of a unilateral undertaking from the appellant to the Council has been provided. Although the Council has not confirmed that this undertaking meets their requirements, on the basis of the evidence, I am satisfied that both legally and with regard to what it will secure and deliver it achieves what the Council sought in their evidence to this appeal. On that basis, I consider that the proposal could secure satisfactory contributions towards the matters listed.



## Conclusion

36. The proposal conflicts with the development plan insofar as insufficient marketing evidence has been submitted to justify the loss of the protected employment site. Whilst this is the case, it is also important to note that the Council sold the site to the appellant, an affordable housing provider because they themselves no longer had use for it. Whilst I do not have details of that sale process, it seems reasonable to assume that if the site was commercially viable, then the Council, as a public body, would have sought to achieve best value and possibly made different commercial decisions.
37. Even if that were not to be the case, as the appellant highlights, there now exist prior-approval permitted development rights which give rise to more than a merely theoretical prospect of a fall-back position whereby the entire retained building is, or indeed, all of the buildings currently on the site are, converted to residential use with no control over their tenure. When compared to the appeal proposal for entirely affordable housing in both houses and flats, coupled with the retention of one floor of office space and a contribution towards the Ramsar site, the fall-back position would plainly be a worse situation. To my mind this weighs heavily in favour of the appeal proposal.
38. I note the concerns of the Wem Area Climate Action group around partial demolition and the issues of embedded carbon. However, for the same reasons as above, taking all matters together, I find that the balance weighs in favour of the proposal.
39. Although the appellant alleges that the Council cannot provide a five-year supply of housing-sites and that as a result the test at paragraph 11 of the Framework is engaged, the Council claims to have a sufficient supply of housing land, confirmed by the recent Housing Delivery Test results. Given that, I do not consider that the test at paragraph 11 of the Framework is engaged, although the Framework remains a material consideration.
40. I have found above that in respect of open space, landscape effects, living conditions and environmental effects, the proposal accords with the development plan. I have found that it conflicts with it with regard to the evidence required to justify the loss of protected employment land.
41. As set out, that conflict is somewhat limited, and in any event, there are material considerations of substantial weight in favour of the proposal, notably that it will deliver 28 affordable housing units in an area of need on a brownfield site in a sustainable location, close to facilities and services, and secure the retention of some office space.
42. I therefore find that the proposal largely accords with the development plan, and where it does not, there are material considerations of such weight to indicate that a decision be taken other than in accordance with it.
43. Taking all of the above together, the appeal should be allowed, and planning permission granted.

*S Dean*

INSPECTOR

## Schedule of Conditions

1. The development hereby permitted shall be begun before the expiration of three years from the date of this permission.
2. The development shall be carried out strictly in accordance with the following approved plans, drawings and documents (including the recommendations therein):
  - PL001\_REV B - Location Plan.pdf
  - PL003\_REV H - Proposed Site Plan
  - PL031\_REV B - Proposed Street Scenes
  - PL023\_REV B - Proposed Elevations
  - PL022\_REV A - Office Conversion Proposed Floor Plans
  - PL011\_REV A - House Type B
  - PL012\_REV B - House Type C
  - PL013\_REV - - House Type D
  - PL001\_REV B - Location Plan
  - PL003\_REV H - Proposed Site Plan
  - Hepworth Acoustic Noise Assessment, ref P22-504-R01v2
  - Drainage Strategy, reference ER-LE-GEN-XX-DR-CE-500-S1-A
  - Transport Assessment - February 2023
  - Tree Constraints Plan Drawing Number: ZTL 101
  - Preliminary Ecological Appraisal, reference ZEL\_181
  - Bat Emergence Survey Report, reference ZEL\_380
3. No development shall take place until a scheme of surface and foul water drainage has been submitted to and approved in writing by the Local Planning Authority. The approved scheme shall be fully implemented before the development is occupied/brought into use (whichever is the sooner).
4. 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.
5. The construction of any new estate street shall not be commenced until full engineering, drainage, street lighting and constructional details of the streets proposed for adoption have been submitted to and approved in writing by the local planning authority. The development shall, thereafter, be constructed in accordance with the approved details.
6. The construction of any new estate street shall not be commenced until an estate street phasing and completion plan has been submitted to and approved in writing by the local planning authority. The estate street phasing and completion plan shall set out the development phases and the standards that estate streets serving each phase of the development will be completed.
7. Prior to the commencement of development, a Construction Traffic Management Plan/Method Statement (CTMP/MS) shall be submitted to and approved in writing by the Local Planning Authority; the CTMP/MS shall be fully implemented in accordance with the approved details and shall remain in force for the duration of the construction period.

8. Prior to the development hereby permitted being first occupied, a car parking management plan (CPMP) shall be submitted to and approved in writing by the Local Planning Authority; the CPMP shall be fully implemented in accordance with the approved scheme and shall remain in force for the lifetime of the development.
9. Prior to first occupation / use of the buildings, the makes, models, and locations of wildlife 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 4 external woodcrete bat boxes or integrated bat bricks, suitable for nursery or summer roosting for small crevice dwelling bat species.
  - A minimum of 10 artificial nests of either integrated brick design or external box design, suitable for a range of species, including starlings (42mm hole, starling specific) sparrows (32mm hole, terrace design), house martins (house martin nesting cups), small birds (28mm or 32mm holes, standard design), robins (open-fronted boxes) and wrens (wren specific).
  - A minimum of 6 swift bricks.
  - 2 hedgehog boxes.
  - 2 invertebrate boxes.

The boxes shall be sited in suitable locations, with a clear flight path (where appropriate) and where they will be unaffected by artificial lighting. Swift bricks should be positioned: 1) Out of direct sunlight; 2) At the highest possible position in the building's wall; 3) In clusters of at least three; 4) 50 to 100cm apart; 5) Not directly above windows; 6) With a clear flightpath to the entrance; and 7) North or east/west aspects preferred. (See <https://www.swift-conservation.org/Leaflet%204%20-%20Swift%20Nest%20Bricks%20-%20installation%20&%20suppliers-small.pdf>.)

The boxes shall thereafter be maintained for the lifetime of the development.

10. Prior to the erection of any external lighting on the site, a lighting plan shall be submitted to and approved in writing by the Local Planning Authority. The lighting plan shall demonstrate that the proposed lighting will not impact upon ecological networks and/or sensitive features, e.g. bat and bird boxes (required under a separate planning condition). The submitted scheme shall be designed to take into account the advice on lighting set out in the Bat Conservation Trust's Guidance Note 08/18 Bats and artificial lighting in the UK. The development shall be carried out strictly in accordance with the approved details and thereafter retained for the lifetime of the development.
11. Prior to any above ground works details will be submitted to the local planning authority and approved in writing with regards to external construction materials in relation to external walls, external roofing materials and external rooflights. The development will be carried out as approved.
12. No construction (and/or demolition) works shall take place before 0730; am on weekdays and 0800 am on Saturdays nor after 1800 pm on weekdays and 1300 pm on Saturdays; nor at anytime on Sundays, Bank or Public Holidays.

13. All trees which are to be retained in accordance with the approved plan shall be protected in accordance with BS 5837: 2012 'Trees in relation to Design, Demolition and Construction recommendations for tree protection'. The protective fencing and cellular confinement systems shall be installed prior to commencing any approved development related activities such as 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.
14. No above ground works shall be commenced until full details of both hard and soft landscape works (in accordance with Shropshire Council Natural Environment Development Guidance Note 7 'Trees and Development') have been submitted to and approved in writing by the local planning authority. The landscape works shall be carried out in full compliance with the approved plan, schedule and time scales. 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.
15. The accommodation on the second floor will remain as Office accommodation, (Class E), in perpetuity in accordance with detail as shown on approved drawing "PL022\_REV A – Office Conversion Proposed Floor Plans".

**End of Schedule of Conditions**



# Appeal Decision

Site visit made on 16 January 2024

**by A Veevers BA(Hons) DipBCon MRTPI**

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

**Decision date: 29<sup>th</sup> January 2024**

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**Appeal Ref: APP/L3245/D/23/3327885**

**Tobar Tigh, 3 Birchwood Grove, Higher Heath, Whitchurch SY13 2EX**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
  - The appeal is made by Mr & Mrs Chadwick against the decision of Shropshire Council.
  - The application Ref 23/01995/FUL, dated 5 June 2023, was refused by notice dated 23 June 2023.
  - The development proposed is extension and garage.
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## Decision

1. The appeal is dismissed.

## Preliminary Matters

2. During the appeal, a new version of the National Planning Policy Framework (the Framework) came into effect. However, as the Framework's policy content insofar as it relates to the main issue has not been significantly changed there is no requirement for me to seek further submissions on this latest version. I am satisfied no party would be prejudiced by determining the appeal accordingly.
3. I am satisfied from the evidence, that the Council do not find the proposed single storey rear extension to be unacceptable. I have no contrary evidence before me to conclude differently on this element of the proposal as a result of the submissions before me or my site visit. Accordingly, I shall direct my assessment solely to the proposed garage.

## Main Issue

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

## Reasons

5. The appeal site is a detached two storey dwelling located close to the entrance of a cul-de-sac road in a residential area. Dwellings in the immediate vicinity of the appeal site, whilst predominantly detached, include single storey properties and are varied in their design, scale and appearance. A common feature of properties on the north side of the entrance to Birchwood Grove is that they are set back a moderate distance from the road behind long front gardens/paved areas some of which, contain several mature trees. This contributes positively to a feeling of spaciousness along the road.
6. Views through the gaps between properties and the surrounding mature landscaping and woodland, low boundary features and hedgerows add to the

- spaciousness and verdancy of the area and form part of its sylvan setting and intrinsic character.
7. The proposed double detached garage would be sited in the front garden of the appeal site, close to the existing low boundary wall and railings fronting Birchwood Grove. It would have a pitched roof and be a substantial size in the overall context of the site and would protrude significantly towards Birchwood Grove.
  8. The front garden would be large enough to accommodate the proposed garage and there is no uniform building line along the north side of Birchwood Grove. Furthermore, the garage would be constructed using timber cladding which would reflect features of the surrounding woodland. Nevertheless, the garage would be positioned so close to the boundary with No.1 Birchwood Road (No. 1) and the pavement along Birchwood Grove, that it would introduce an overly prominent and incongruous structure in the street scene.
  9. Although a cluster of evergreen trees on the grass verge of Birchwood Grove would provide some screening of the proposal when entering the cul-de-sac road, once past these trees and when approaching from the east, the bulk of the proposed garage would be clearly visible. It would be an intrusive and discordant structure in the context of the relatively open front gardens of the adjoining properties and when viewed from the street. The spaciousness to the front of the appeal dwelling would be considerably reduced. The slightly higher land level of the front corner of the garden in comparison to Nos. 3 and 5 Birchwood Grove would also exacerbate the prominence of the building. Consequently, the proposed garage would appear out of character with the established pattern of development and spacious character in the immediate vicinity of the appeal site.
  10. I observed at my site visit that vegetation had been planted along the side boundary with No. 1 and behind the front boundary wall and I note the photographs provided by the appellant of a previous hedge at the site. The appellant has also indicated a willingness to provide additional landscaping. However, the gap between the proposed garage and the boundaries would be limited and would not provide space for a significant degree of planting.
  11. Furthermore, I have not been provided with full details of landscaping nor substantive evidence that any proposed landscaping would prevent views of the garage, particularly having regard to the height of the proposed pitched roof. Therefore, I cannot be certain that planting would be effective. Moreover, any planting would take time to mature and could easily die or be removed. This would therefore not mitigate the harm outlined above.
  12. I have been referred, by the appellant, to a detached double garage that has been approved by the Council close to the appeal site at Fox Heath, Manor House Lane<sup>1</sup>. The full details and background to this case have not been provided. I note however, from the evidence, that the position and size of the garage at Fox Heath appears similar to the appeal before me, although the location of this site is different as it faces open countryside. Although relevant, this decision is not binding and does not limit the scope of judgement in individual case circumstances in other locations. Moreover, the existence of development elsewhere does not represent an appropriate reason to find in

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<sup>1</sup> LPA Ref: 21/01821/FUL

favour of a proposal that would cause harm in this case, a case I have considered on its own merits.

13. For the reasons given above, the proposed garage would cause significant harm to the character and appearance of the area.
14. Accordingly, the proposal considered as a whole, would conflict with Policy CS6 of the Shropshire Local Development Framework: Adopted Core Strategy and Policy MD2 of the Shropshire Council Site Allocations and Management of Development Plan, which together and amongst other things, seek development that is of a high-quality design, that has an appropriate scale and respects and enhances local distinctiveness. There would also be a conflict with the Framework where it seeks to achieve well-designed places.

### **Conclusion**

15. The proposed development conflicts with the development plan taken as a whole. There are no other material considerations of sufficient weight which indicate that a decision should be made other than in accordance with the development plan.
16. The appeal is therefore dismissed.

*A Veevers*

INSPECTOR

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# Appeal Decision

Site visit made on 30 January 2024

by **L C Hughes BA (Hons) MTP MRTPI**

an Inspector appointed by the Secretary of State

**Decision date: 13 February 2024**

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**Appeal Ref: APP/L3245/W/23/3328007**

**Northwood Cottage, The Hill, Grinshill, Shropshire SY4 3BU**

- 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 Good against the decision of Shropshire Council.
  - The application Ref 23/01504/FUL, dated 4 April 2023, was refused by notice dated 31 May 2023.
  - The development proposed is Proposed Change of use of part of existing curtilage from agricultural field to residential use. Proposed extensions.
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## Decision

1. The appeal is allowed and planning permission is granted for Proposed Change of use of part of existing curtilage from agricultural field to residential use and proposed extensions at Northwood Cottage, The Hill, Grinshill, Shropshire SY4 3BU in accordance with the terms of the application, Ref 23/01504/FUL, dated 4 April 2023, subject to the following conditions:
  1. The development hereby permitted shall begin not later than 3 years from the date of this decision.
  2. The development shall be carried out strictly in accordance with the following approved plans – Location plan showing garden ponds; Site and Location Plans 2019 D302; Alterations and extensions as existing 2019 D300; and Alterations and extensions as proposed 2019 D301.
  3. All new external work and finishes and work of making good of the development hereby permitted shall match existing adjacent original work in respect of materials used, detailed execution and finished appearance, except where indicated on the drawings hereby approved.
  4. No development shall commence until details of all external windows and doors and any other external joinery shall be submitted to and approved in writing by the Local Planning Authority. These shall include full size details, 1:20 sections and 1:20 elevations of each joinery item which shall then be indexed on elevations on the approved drawings. The development shall thereafter be carried out in accordance with the approved details.
  5. The development shall be carried out in strict accordance with the Reasonable Avoidance Measures Method Statement in respect of great crested newts, as set out in the Reasonable Avoidance Measures Method Statement (Arbor Vitae, February 2021).

## **Preliminary Matters**

2. I have not addressed the 'proposed change of use of part of the existing curtilage from agricultural field to residential use' in this appeal decision, as permission has been granted for this element of the development, along with a smaller extension, under application 23/04255/FUL which was determined after this appeal was submitted.
3. On the 19 December 2023 the Government published a revised National Planning Policy Framework (the Framework) later updated on 20th December 2023, together with a written ministerial statement (WMS). The revised Framework is a material consideration which should be taken into account from the day of publication. I have familiarised myself with the content of the revised Framework and the accompanying WMS. Having considered the parties' respective cases and the nature of the revisions, in light of the principles of natural justice, I have not considered it necessary to invite any submissions from the parties on the revised Framework.

## **Main Issue**

4. The main issue is the effect of the proposal on the character and appearance of the host building and the surrounding area.

## **Reasons**

5. Northwood Cottage is a detached dwelling which sits opposite Grinshill Hill, an area of woodland registered as a wildlife site due to the sandstone outcrop habitats, conifer plantations, birch wood and quarry heathland. The appeal site currently comprises domestic and agricultural land, along with the dwelling. There are a small number of residential properties close by.
6. Northwood Cottage is considered a non-designated heritage asset. The significance of Northwood Cottage, as a non-designated heritage asset, lies partly in the historic past use of the site as a farm range. The original part of the appeal dwelling was seemingly used as a shed and food store to the small holding now known as 60, The Hill, which is the property next door to the appeal site.
7. Paragraph 209 of the Framework requires that the effect of a proposal on the significance of a non-designated heritage asset should be taken into account in determining the application and states that a balanced judgement will be required having regard to the scale of any harm and the significance of the heritage asset.
8. The appeal property has previously been extended to link to and incorporate a later rear outbuilding. The sensitive conversions and extensions, along with the location of the appeal property set back within its generous plot, make a positive contribution to the picturesque rural character of the area.
9. Whilst the proposed extension would extend out to the northeast of the side gable of the former outbuilding to the rear of the appeal property, this would not appear as unacceptably incongruous or significantly alter the character and appearance of the appeal property. The linear form of the height of the extension would be lower than that of the existing building which would ensure that the extension would appear visually subordinate and would not excessively overwhelm the original building. The proposed extension would not adjoin

those parts of the original building which are considered to have heritage merit. I consider that the significance of the original building in terms of its age and previous use would not be harmed. Furthermore, the linked design between the original dwelling and the previously approved extension would not be impacted, ensuring that the clear delineation between the two originally separate buildings would remain.

10. The proposed extension is not excessive in its scale or design in relation to the site context, even taking into account the fact that there have been previous extensions to the appeal property. At approximately 23m<sup>2</sup> the extension would not be overly large, and the appeal property lies within a generous plot. The proposed extension would not cause the site to appear cramped or over developed.
11. Although not cited within the reasons for refusal on the decision notice, Shropshire Council's Type and Affordability of Housing Supplementary Planning Document (2012) (SPD) has been referenced in the Officer report. Guidance within the SPD seeks to control the size of extensions in the rural area, in part to help maintain the stock of smaller, lower cost market dwellings. The guidance warns against multiple successive extensions as this tends to lead to the creation of excessively large properties. Although the SPD does not give specific guidance on what would be considered excessive, it is my view that, in this instance, the scale of the proposal would not lead to the creation of an excessively large property nor would it lead to the loss of a small, low cost dwelling.
12. The appeal site is located along a single track road and there are nearby public footpaths. However, the proposed extension is set back within the plot some distance from the boundaries. I consider that due to the positioning of the proposed extension within the plot and its scale in relation to the host property, it would not appear as prominent or over dominant in the street scene. The proposed extension would sit comfortably within the context of the existing built development of the host property and surrounding dwellings when viewed from the limited public vantage points.
13. The Council have suggested that the proposed development would result in minimal public benefits. Criteria 3 of Policy MD13 of the Shropshire Council Site Allocations and Management of Development (SAMDev) Plan (2015) states that proposals which are likely to have an adverse effect on the significance of a non-designated heritage asset, including its setting, will only be permitted if it can be clearly demonstrated that the public benefits of the proposal outweigh the adverse effect. Although this goes beyond the requirements of the Framework, which calls for a balanced judgement having regard to the scale of any harm and the significance of the non-designated heritage asset, I have found that the proposed development would not, in any case, have an adverse effect on the significance of the non-designated heritage asset. As such, I have not deemed it necessary to consider whether the proposal would result in public benefits.
14. I conclude that the proposal would not harm the character and appearance of the host property or the surrounding area. The proposal would therefore accord with Policies CS6 and CS17 of the Shropshire Council Adopted Core Strategy (2011) and Policies MD2, MD7a, MD12 and MD13 of the SAMDev, along with the Framework which together seek to ensure that development is of a high

standard, takes into account local context and character and protects the character of the built and historic environment including the context and character of heritage assets including their settings.

### **Conditions**

15. I have considered the conditions suggested by the Council, having regard to the Planning Practice Guidance on conditions. I have amended a number of the conditions in the interest of clarity. The appellant has confirmed their agreement to the proposed pre-commencement condition.
16. In addition to the standard timeframe condition, it is necessary to impose a condition requiring the development to be carried out in accordance with the submitted plans in the interest of certainty (conditions 1 and 2).
17. A condition regarding the materials to be used and details of windows and doors is necessary in order to protect the character and appearance of the area and the architectural interest of the non-designated heritage asset (conditions 3 and 4).
18. I have attached a condition requiring that the work is undertaken in accordance with the Reasonable Avoidance Measures Method Statement in respect of great crested newts set out in the submitted documents, in order to safeguard this protected species (condition 5).

### **Conclusion**

19. For the reasons given above, I conclude that the development would comply with the development plan as a whole and there are no other material considerations to lead me to find otherwise than in accordance with it. As a result, the appeal is allowed.

*L C Hughes*

INSPECTOR