

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

Date: Thursday, 20 July 2023

Committee: Northern Planning Committee

Date: Friday, 28 July 2023

Time: 2.00 pm

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

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

Please click [here](#) to view the livestream of the meeting on the date and time stated on the agenda

The recording of the event will also be made available shortly after the meeting on the Shropshire Council Youtube Channel [Here](#)

The Council's procedure for holding Socially Distanced Planning Committees including the arrangements for public speaking can be found by clicking on this link:

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

Tim Collard - Assistant Director – Legal and Governance

Members of the Committee

Joyce Barrow
Garry Burchett
Geoff Elner
Ted Clarke
Steve Charmley
Nat Green
Vince Hunt
Mike Isherwood
Edward Towers
David Vasmer
Paul Wynn (Chairman)

Substitute Members of the Committee

Roy Aldcroft
Gerald Dakin
Steve Davenport
Julian Dean
Nigel Hartin
Pamela Moseley
Mary Davies

Your Committee Officer is:

Emily Marshall / Shelley Davies Committee Officer

Tel: 01743 257717 / 01743 257718

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

AGENDA

1 Apologies for Absence

To receive apologies for absence.

2 Appointment of Vice-Chairman

3 Minutes (Pages 1 - 6)

To confirm the Minutes of the meeting of the North Planning Committee held on 23rd May 2023, attached, marked 2.

Contact: Emily Marshall on 01743 257717; or
Shelley Davies on 01743 257718.

4 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 Monday, 24th July 2023.

5 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.

6 Proposed Commercial Development, Land To The South Of Hazledine Way, Shrewsbury, Shropshire (22/03877/FUL) (Pages 7 - 58)

Mixed use development including retail, gym, drive-thru coffee shop and drive-thru restaurant (use class E), tanning and beauty salon (sui generis), and residential care home (use class C2) together with access, parking, landscaping and associated infrastructure.

7 Roundabout Junction A5112 Whitchurch Road & Telford Way / A5191 Ditherington Road / B5062 Sundorne Road, Heathgates, Shrewsbury, Shropshire (23/00772/ADV) (Pages 59 - 66)

Erect and display three sponsorship signs placed on the roundabout

8 Roundabout Junction A5112 Hereford Road, Meole Brace, Shrewsbury, Shropshire (23/00782/ADV) (Pages 67 - 74)

Erect and display three sponsorship signs placed on the roundabout

9 Roundabout Junction A458 The Mount/Frankwell/Copthorne Road Roundabout, Shrewsbury, Shropshire (23/02352/ADV) (Pages 75 - 82)

Erect and display four sponsorship signs placed on the roundabout

10 Land North of Whittington Road, Oswestry (23/00225/FUL) (Pages 83 - 176)

Proposed residential development of 83 dwellings with associated access, public open space, electricity sub-station, drainage and landscaping (re-submission)

11 Riverside Shopping Centre, Pride Hill, Shrewsbury, Shropshire (23/02123/FUL) (Pages 177 - 196)

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

12 Appeals and Appeal Decisions (Pages 197 - 244)

13 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 15th August 2023, in the Shrewsbury Room, Shirehall, Shrewsbury.

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Committee and Date

Northern Planning Committee

28th July 2023

NORTHERN PLANNING COMMITTEE

Minutes of the meeting held on 23 May 2023

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

2.00 - 3.05 pm

Responsible Officer: Emily Marshall / Shelley Davies

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

Tel: 01743 257717 / 01743 257718

Present

Councillor Paul Wynn (Chairman)

Councillors Joyce Barrow, Garry Burchett, Geoff Elner, Ted Clarke, Nat Green, Vince Hunt, Mark Jones (Vice Chairman) and Mike Isherwood

4 Apologies for Absence

Apologies for absence were received from Councillors Edward Towers and David Vasmer.

5 Public Question Time

There were no public questions or petitions received.

6 Minutes

RESOLVED:

That the Minutes of the meeting of the North Planning Committee held on 2nd May and 11th May 2023 be approved as a correct record and signed by the Chairman.

7 Disclosable Pecuniary Interests

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

With reference to planning applications to be considered at this meeting, Councillor Nat Green noted that he was a member of Shrewsbury Town Council Planning Committee and indicated that his views on any proposals when considered by the Town Council had been based on the information presented at that time and he would now be considering all proposals afresh with an open mind and the information as it stood at this time.

8 Land Adjacent To Churncote Island, Welshpool Road/A5, Welshpool Road, Bicton Heath, Shrewsbury, Shropshire (22/02464/FUL)

The Consultant Planner introduced the application for the development of roadside services including - a Petrol Filling Station with ancillary retail (Sui Generis) and a drive-through unit (Class E) and confirmed that the Committee had undertaken a site visit on 4th April 2023 to assess the impact of the proposed development on neighbouring properties and the surrounding area. It was explained that at the meeting held on 4th April 2023, Members resolved to defer the application to allow the applicant the opportunity to address a number of issues raised by the Committee. The Consultant Planner advised that if Members were minded to approve the application Condition 16 should be deleted from any permission granted.

On behalf of Emma Bullard, local resident, the Council's Solicitor read out a statement against the proposal in accordance with Shropshire Council's Scheme for Public Speaking at Planning Committees.

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

Mike Sproston, 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 requested clarification in relation to the contribution towards the North West Relief Road and if this was index linked as noted in the report. The Consultant Planner stated that he had been led to believe that this was the case but as confirmed by the Agent representing the applicant, the contribution offered was a fixed amount and not index linked.

Having considered the submitted plans the majority of members expressed their support for the proposal.

RESOLVED:

That planning permission be granted in accordance with the Officer's recommendation, subject to:

- The conditions set out in Appendix 1 of the Planning Officer's report;
- The signing of a Section 106 agreement to ensure a financial contribution of £88,500 towards the North West Relief Road in accordance with detail as set out in Section 6.10 of the report; and
- The deletion of Condition 16 as outlined by the Planning Officer.

9 **2 Lullas Way, Weston Lullingfields, Shrewsbury, Shropshire, SY4 2FL
(23/00706/FUL)**

The Planning Manager North introduced the application for the erection of rear and side extension to provide ground and first floor accommodation.

Having considered the submitted plans Members unanimously expressed their support for the proposals, in accordance with the officer's recommendation.

RESOLVED:

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

10 **Roundabout Junction A49/A53A5124/A5112, Battlefield, Shrewsbury,
Shropshire (23/00770/ADV)**

The Technical Specialist Planning Officer introduced the application for the erection and display of five sponsorship signs placed on the roundabout.

Having considered the submitted plans the majority of members expressed their support for the proposal.

RESOLVED:

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

11 **Roundabout Junction Meole Brace/A5112/Hereford Road/Hazeldne
Way/B4380/Oteley Road, Shrewsbury, Shropshire (23/00774/ADV)**

The Technical Specialist Planning Officer introduced the application for the erection and display of six sponsorship signs placed on the roundabout.

Having considered the submitted plans the majority of members expressed their support for the proposal.

RESOLVED:

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

12 Roundabout Junction A5112 Hazeldine Way/Sutton Lane/Pritchard Way, Shrewsbury, Shropshire (23/00776/ADV)

The Technical Specialist Planning Officer introduced the application for the erection and display of four sponsorship signs placed on the roundabout.

Having considered the submitted plans the majority of members expressed their support for the proposal.

RESOLVED:

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

13 Roundabout Junction A5112/Robertson Way/ Woodcote Way/Telford Way, Shrewsbury, Shropshire (23/00777/ADV)

The Technical Specialist Planning Officer introduced the application for the erection and display of three sponsorship signs placed on the roundabout.

Having considered the submitted plans the majority of members expressed their support for the proposal.

RESOLVED:

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

14 Roundabout Junction Crowmere Road/A5112/Robertson Way/Bage Way, Shrewsbury, Shropshire (23/00780/ADV)

The Technical Specialist Planning Officer introduced the application for the erection and display of three sponsorship signs placed on the roundabout.

Having considered the submitted plans the majority of members expressed their support for the proposal.

RESOLVED:

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

15 Roundabout Junction Reabrook/Bage Way/Old Potts Way, Shrewsbury, Shropshire (23/00781/ADV)

The Technical Specialist Planning Officer introduced the application for the erection and display of four sponsorship signs placed on the roundabout.

Having considered the submitted plans the majority of members expressed their support for the proposal.

RESOLVED:

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

16 Appeals and Appeal Decisions

RESOLVED:

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

17 Date of the Next Meeting

It was noted that the next meeting of the North Planning Committee would be held at 2.00 p.m. on Tuesday 20th June 2023 in the Shrewsbury/Oswestry Room, Shirehall, Shrewsbury.

Signed (Chairman)

Date:

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AGENDA ITEM



Committee and date
Northern Planning Committee
28 July 2023

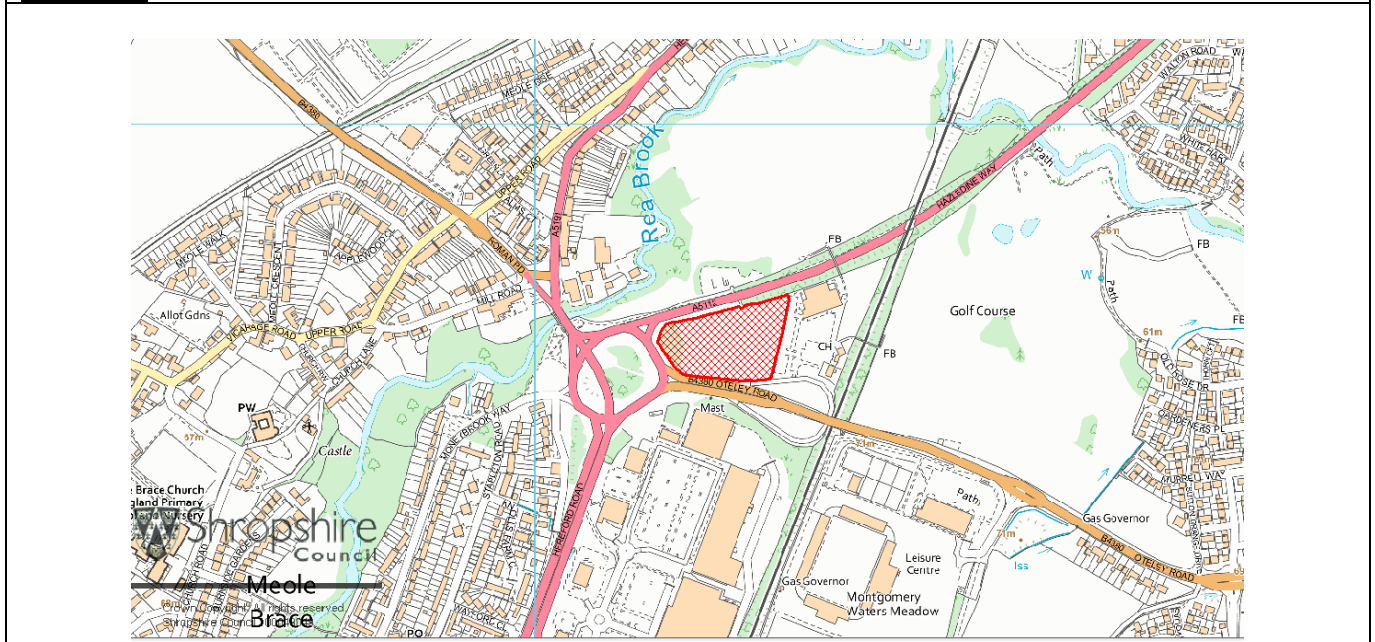
Development Management Report

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

Summary of Application

Application Number: 22/03877/FUL	Parish:	Shrewsbury Town Council
Proposal: Mixed use development including retail, gym, drive-thru coffee shop and drive-thru restaurant (use class E), tanning and beauty salon (sui generis), and residential care home (use class C2) together with access, parking, landscaping and associated infrastructure.		
Site Address: Proposed Commercial Development Land To The South Of Hazledine Way Shrewsbury Shropshire		
Applicant: Cordwell Leisure Developments (Shrewsbury) Ltd and Avery Healthcare		
Case Officer: Kelvin Hall	email: kelvin.hall@shropshire.gov.uk	

Grid Ref: 349286 - 310660



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UPDATE REPORT

Recommendation: Delegate authority to the Planning and Development Services Manager to grant planning permission subject to the conditions listed in Appendix 1 of the original committee report, as amended by section 4.6 of this update report, and to any modifications to those conditions as considered necessary by the Planning and Development Services Manager.

1.0 BACKGROUND

1.1 This application was presented to the Northern Planning Committee at its meeting on 2nd May 2023. Members resolved to defer the application for the following reasons:

1. The issue of the former use of the site had not adequately been dealt with;
2. A review of the Traffic Assessment to consider busy times;
3. Active travel to the site needed further investigation;
4. Foul Discharge, more information was needed in relation to this.

1.2 The applicant has now submitted additional information in relation to the above matters. Officers have considered this and provide below an update to the previous Committee report (included as Appendix A). This should be read in conjunction with the previous report.

2.0 ADDITIONAL INFORMATION SUBMITTED

2.1 Former use of the site: The applicant has provided further information in relation to the former use of the site as a 'pitch and putt' facility connected to the adjacent 12-hole golf course.

2.2 Traffic Assessment: The applicant's transport engineers have prepared a technical note to address the issues raised by Members.

2.3 Active travel: Further information has been submitted on this matter.

2.4 Foul discharge: The applicant has advised that there were issues of water discharge /blockage close to the boundary of the site. The Council appointed Advanced Group Global Holdings Ltd to investigate this. They have advised as follows:

- a section of 100mm clay drainage pipe work was blocked at 17 metres upstream from the site
- the pipe work was jetted through and the blockage was cleared, and the issue has

not reappeared since this was done.

2.5 Officers have assessed the additional information that has been submitted and this is discussed in sections below.

3.0 ADDITIONAL COMMUNITY REPRESENTATIONS

3.1 Since the original Committee Report was drafted a number of additional representations have been made. These are summarised below and include those that were included on the 'additional representations' schedule that was circulated to Members in advance of the 2nd May committee meeting, and all further ones that had been received at the time of writing this update report.

3.2 -Consultee comments

3.2.1 **SC Drainage** Recommends that a condition is imposed to require that development does not 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 Drainage team have also offered the following further advice:

- Hydraulic design of porous paving must be in accordance with Interpave guidance and submitted for approval
- Full details of foul or surface water outfalls should be submitted for approval
- Full attenuation and simulation calculations for all storms up to the 1 % AEP plus 40% must be submitted for approval
- Details of the pipe system to convey surface water to the attenuation tanks should be amended
- A contoured exceedance route plan must be submitted for approval demonstrating that exceedance flows will not result in the flooding of property or contribute to flooding outside of the development site
- The specific proposed maintenance regime for the drainage systems proposed, including details of who will take responsibility, must be submitted for approval.

3.2.2 **SC Highways** Following the deferral of the application by the Northern Planning Committee due to concerns raised relating to traffic and Active Travel, the applicant has produced additional information in support of the proposals. Concerns raised specifically relating to the Drive Through elements of the overall scheme.

As shown previously, the Carehome is able to derive both entry and exit via the current Golf Course and Gym access arrangements, but as the two developments link to one another, also provides an emergency vehicle routing within the layout should this be required.

The report sets out the known operators of the development as KFC and Starbucks and explains their operating model and the methodology for assessing the impact of

the development on the adjacent highway network. Moreover, that the potential stacking of waiting vehicles can be accommodated within the site and would not give rise to queuing back onto Oteley Road. This information has been assessed by highway officers and it is considered that the additional information adequately demonstrates that the proposals are acceptable and moreover that a refusal on the grounds that the cumulative impact of the development would be severe are not justified.

As indicated previously by Highways, the junction onto Hazeldine Way and treatment of the current speed limit, would be the subject of detailed design and Road Safety Audit process before development commences and once built will be the subject of further safety auditing in line with standard procedures.

Appendix 4 attached to the latest additional information indicates how the site links with both the cycleway/footway network and the confirmed cycle access and egress is now shown on the western side of the site adjacent to Mele Brace Roundabout.

3.2.3 **Cllr Bentick - Local Member (adjacent Ward of Meole)**

(The comments below were previously circulated as part of the 'additional representations' in advance of the 2nd May committee meeting):

The Local Member for the adjacent Ward of Meole, Cllr Bentick has objected to the proposed development on the following grounds:

Pitch and Putt Facilities

- the land was used for over 30 years as the only municipal Pitch & Putt area in Shropshire, attached to Shropshire's only municipal Golf course, which is well frequented by local residents, including nearby Meole Estate, which is among the 20% most deprived communities in England; Meole Estate's young people are among the 10% most deprived, according to Census Data (2011 and 2021).
- Inadequate consultation of local residents and the golfing community prior to decision to regard the land as surplus to need; against the wishes of Shrewsbury Town Council
- part of a bio-diverse habitat comprising The Rea Brook Conservation Area and Meole Golf Course
- should be returned to municipal Golfing use for Pitch and Putt facilities
- South Shrewsbury is poorly served for community leisure and sports facilities and activities and the decision for the proposed sale of this land should be reversed.

Proposed Care Home Development

- currently no pressing need for additional Care Home beds, partly as Shropshire Council has a Policy of preferentially caring for people in their own homes. According to the CQC register on 3rd January 2023, there were a total of 3572 registered beds in 118 Care Homes in Shropshire and on 9th January 2023, there was good availability of vacant beds across all bed types. 3 Care Homes opened in

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January and February 2023, adding 200 new beds; two new Care Homes due to open on Oteley Road, close to Hazledine Way; all information from Executive Director of People on 11th January 2023.

- main issue in Care Homes is poor pay and working conditions for staff, resulting in 248 beds across Shropshire being closed at the start of 2023

Mixed retail, fast food and Care Home premises on the same site

- combination of premises is incompatible and all will substantially increase traffic at Meole Brace roundabout, which is already frequently overloaded, resulting in long queues along all feeder roads at busy times at present.

Overall Traffic Flow

- the Traffic Assessment is based upon data collected on one weekday in early April 2022 and is unrepresentative; does not reflect the high traffic flow at Meole Brace roundabout at peak times, including weekends and holidays; the impact of the proposed housing development of 150 new houses adjacent to Meole Retail Park has not been considered

Needs of local residents and children and students travelling to the Education Quarter of South Shrewsbury

- principal needs of local residents have not been considered and are for increased leisure and recreational facilities and activities for young people and additionally for safe active travel facilities: this proposed development directly conflicts with those needs
- the current and proposed Active Travel infrastructure along all routes to and from Meole Brace roundabout will be adversely affected, if not completely disrupted, by this development; 2350 children and students and their parents travel through the South Shrewsbury Education Quarter every day; there are an average of 3 traffic collisions involving children and students on the roads approaching Meole's 3 schools every term: safety is likely to be further compromised by this development, not the least from the proposed exit onto Hazledine Way, which is unsuitable for pedestrians and cyclists, having a speed limit of 50 mph and inadequate separation of active travellers from vehicles.

Surface Water and Foul Drainage

- the cursory report from Nolan Associates has concluded that there are no adopted sewers in the immediate area. No solution for this deficit was declared. The Shropshire Water Cycle Report 2020 (SWCR 2020) rated Shrewsbury as RED with regard to sewerage capacity, with the need for urgent engagement of Shropshire Council with Severn Trent Water Company to resolve the issues. No Document from this engagement has been published.
- Severn Trent Water Company (STWC Ltd) has not made public their strategic or detailed plans for improvements to Sewage Treatment Works (STWs) or Combined Storm/Sewage Overflows (CSO) in Shrewsbury and there are no documents in this

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Planning Application detailing how increased surface water and foul drainage will be connected to the sewerage system or how the already overloaded system will cope with the increased volume caused by this development.

- the SWCR 2020 called for active engagement of Shropshire Council with STW to resolve existing issues, as well as proposed developments and there are no declared documents detailing the outcome of this engagement
- in 2022, including a relatively dry summer, there were 794 mostly dry weather (illegal) spills for 8800 hours from STWs and CSOs into the Rea Brook and River Severn in the Shrewsbury area, including 1267 hours at Monkmoor STW, 1360 hours at Greyfriars Bridge and 2592 hours at the Radbrook CSO. Only 1.3% of spills are due to extreme weather conditions.
- in 2021, a more representative year, there were 1559 spills for a total of 23,293 hours (almost 1000 days) into The Rea Brook and River Severn in the Shrewsbury area, with no improvements declared by STWC Ltd over those 2 years or for 2023. These figures included spills from Monkmoor STW for 4110 hours, Greyfriars Bridge CSO for 2132 hours and Radbrook CSO for 3479 hours.
- comprehensive documents from STWC Ltd and Shropshire Council should be published on the strategic and detailed plans to cope with both the current inadequate capacity of the Sewerage System in the Shrewsbury (and Shropshire) area and how the increased demands from new developments will be met, before this and any other large development in Shrewsbury and Shropshire receives Planning Consent.
- Sport England guidance provides a recommended approach to undertaking a robust assessment of need for indoor and outdoor sports facilities. The guide has primarily been produced to help (LAs) meet the requirements of the NPPF, which states that 'Access to high quality open spaces and opportunities for sport and recreation can make an important contribution to the health and well-being of communities. Planning policies should be based on robust and up-to-date assessments of the needs for open space, sports and recreation facilities and opportunities for new provision. The assessments should identify specific needs and quantitative or qualitative deficits or surpluses of open space, sports and recreational facilities in the local area. Information gained from the assessments should be used to determine what open space, sports and recreational provision is required.'
- the Meole Brace Golf Pitch and Putt Facility was not advertised or promoted as a local facility by Shropshire Unitary Council since its formation in 2009 until the Pitch and Putt facility was closed a decade later in 2019. During this time, it received inadequate maintenance and yet prices were increased, without justification.
- Meole Brace Golf Course has not received adequate funds for maintenance over the last 15 years; in particular, bunkers are in a poor state; no significant investment in the course over that time period
- the local Communities have inadequate open spaces and in particular, Council sponsored sports/leisure facilities and activities, including Meole

- Golf has a recognised beneficial effect on wellbeing and we should be increasing facilities, not reducing them
- has been an overall increase in those playing Golf since the Covid 19 Pandemic
- should be promoting this sport, not slashing one of its building blocks, that is Pitch and Putt facilities
- Meole was the only municipal Pitch and Putt facility in Shropshire and should not have been closed without adequate assessment and consultation, which I now request
- the planning application should be halted until all appropriate processes have been undertaken.

3.2.4 Shropshire Playing Fields Association

Comments of 17/7/23 (summary):

- in response to the applicant's statement regarding "the demise of much of the casual dining market in Shrewsbury" and that KFC will plug the gap created by others, the applicant should provide substantial authentic evidence of the demise, and whether the landowner of the Meole Brace pitch and putt Shropshire Council share this view put forward by the applicant
- there are currently 23 flourishing food and drink outlets within a few hundred yards of the site; two further food and drink outlets are not needed in this area of Shrewsbury, whereas there is a need for public outdoor open spaces
- the applicant has failed to provide a 'retail impact assessment' to support their application; policy MD10b of the adopted SAMDev DPD advises that proposals for main town centre uses of 300m² or more that are located outside defined principal centres, such as Shrewsbury Town Centre, are required to satisfy a "retail impact test"; applicant has failed to provide this in accordance with Planning Practice Guidance; the assessment should be provided by a collective group that includes the applicant, Shropshire Council, Shrewsbury Town Council, Shrewsbury Bid and the Shropshire Chamber of commerce, with its findings being put to the residents of Shrewsbury
- list of food and drink outlets within 0.5 miles of the golf course: 1. Flames Kebab & Pizza Takeaway; 2. Shalimar Takeaway; 3. Pizza Hut; 4. McDonalds; 5. Burgerking; 6. Starbucks; 7. On the move Greggs; 8. Subway; 9. Costa; 10. Marks and Spencers Café; 11. Dobbies Garden Centre restaurant; 12. Next café; 13. The Brooklands pub and eating place; 14. Bannantynes café; 15. Meole Brace Bowls Club Bar and catering; 16. Louise house café; 17. Pro league bar and restaurant; 18. Football Stadium catering and function rooms; 19. Percy Throwers restaurant and café; 20. Asda food outlet; 21. Lidl food outlet; 22. Sainsbury food outlet; 23. Marks and Spencer food outlet.

Comments of 29/6/23: The landowner Shropshire Council despite repeated requests to officers, staff and members by Shropshire Playing Fields Association have so far failed to produce any robust or up-to-date evidence to be able to justify their claim that

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the pitch and putt golf course is clearly surplus to requirement.

Golf participation levels are rising steeply across the UK and it would seem that Meole Brace Pitch and putt could make a substantial profit year on year for Shropshire Council if managed, maintained and designed in a suitable, efficient and acceptable manner, that would fit well with the Councils Healthy living strategy.

SPFA do not believe a fast food outlet, tanning salon or drive through coffee shop is conducive or in line with Shropshire Councils health recommendations aimed at reducing 62% Overweight and Obesity levels.

Previous comments 27/5/23: The application does not adhere to NPPF guidelines with relation to the landowners opinion that the pitch and putt was surplus to requirement. A lack of robust up-to-date evidence has been provided by the landowner or applicant to be able to demonstrate clearly the land to be surplus to requirement. Shropshire Council as landowner has failed to properly interpret and apply paragraphs 97, 98 and 99 of the NPPF, Shropshire Council figures show 2,500 paying visits were made in a year to the pitch and putt facilities predominantly we suggest used by young people under the age of 14. 2001 to 2021 census data clearly shows Meole Estate just a few yards away from this site to have high levels of socio-economic deprivation. The same census figures show an increase of 40,000 new residents to Shropshire, many of which now reside in the Meole Brace, Sutton and Column Wards.

Paragraph 98 of the NPPF says a robust and up-to-date assessment of the need for open space should be provided to determine if a facility is surplus to requirement. Shropshire Council does not have a robust up-to-date assessment available. Alternatively it says `there is no identified need in the Council's Playing Pitch and Outdoor Sports Strategy (PPOSS) for 'pitch and putt' provision in Shropshire. The Playing pitch strategy does not cover the needs of golf – indeed there is no mention of golf throughout the 227 page report, so the comment is erroneous.

Paragraph 99 of the NPPF states that the former pitch and putt open space should not be built on unless (a) an assessment has been undertaken which has clearly shown the land to be surplus to requirements; this has not been done or (b) the loss is replaced by equivalent or better provision; this has not been agreed or even discussed or (c) the development is for alternative sports and recreational provision, the benefits of which outweigh the loss.

Given that it is proposed to take away a much needed recreational facility accessible to young people and replace it with a fast tanning salon, fast food restaurant, care home for elderly drive thru coffee shop and a gym facility that young people under 14 would not be able to access then clearly this application fails to meet the requirement set out in paragraph 99 of the NPPF.

We request that a considerable sum of money should be set aside by the landowner so as to be able to replace the pitch and putt with equivalent or better provision elsewhere in Shrewsbury.

Recently Lady Justice Rose on behalf of five Supreme Court judges, said their judgment would act as a warning to local councils that they need to take proper stock when they seek to sell public land, we recommend you should heed those wise words when considering this case, to avoid a similar outcome.

3.3 Additional public representations

3.3.1 Since the original committee report was published four further public objections have been received, taking the total to seven. These additional representations raise the following concerns:

- Incompatibility of mix of retail and fast food development with a care home on the same small site
- Retail and fast food developments will draw more traffic to the Meole Brace roundabout, which is already frequently overloaded with queues and stationary traffic
- The needs of the local population have not been assessed, there isn't a need for a third fast food site so close to the Meole Brace Retail Park and the A5 'Dobbies' roundabout services; no need for another care home needed since there are two others on the Oteley Road
- Instead leisure and recreational facilities for young people are needed
- Need for better, safer access to and around the Meole Brace roundabout for pedestrians and cyclists is needed
- Disruption to children and parents using walking and cycle paths on Oteley Road to get to the primary and secondary schools; their use will be made more difficult by the wide vehicle entrances to the site
- Unsuitability of the exit onto Hazledine Way for cyclists and pedestrians onto a road with a speed limit of 50mph where drivers of oncoming vehicles are focussed on the Meole Brace roundabout, its signage and their lane selection to navigate the roundabout
- The proposed central kerbed island on Hazledine Way to prevent a right turn at this exit is likely to encourage pedestrians and cyclists to cross there
- The Traffic Assessment is based upon data collected on one weekday in early April 2022 and is unrepresentative of the higher traffic flows experienced in summer, at weekends and at holiday times. Nor does it take into account the increase in traffic flow at the roundabout that will result from residential development 22/05051/FUL of 150 homes adjacent to the Meole Brace Retail Park
- Loss of trees and shrubs at the western (roundabout) end of the site that provides screening of the site and is valuable for wildlife
- The site is close to and is important to the Rea Brook Valley Local Nature Reserve
- The local need for leisure and recreational facilities, and for better, safer access to

and around the Meole Brace roundabout for pedestrians and cyclists can be met without developing this site

- The area is already significantly developed and further development is taking place adjacent to the park and ride and football ground
- Little consideration to the town plan, facilities, green space, environmental impact, traffic, sustainability or wishes of local population
- No need for another drive through or a tanning salon
- Loss of public recreational space
- Increase pollution levels
- Will cause traffic congestion at Meole Brace island

4.0 OFFICER APPRAISAL IN RELATION TO REASONS FOR DEFERRAL

4.1 Former use of the site

4.1.1 One of the reasons for the deferral of this application at the 2nd May North Planning Committee meeting was that Members considered that the issue of the former use of the site had not adequately been dealt with.

The previous committee report noted that paragraph 99 of the NPPF states that existing open space, sports and recreational buildings and land should not be built on unless:

- (a) an assessment has been undertaken which has clearly shown the land to be surplus to requirements; or
- (b) the loss is replaced by equivalent or better provision; or
- (c) the development is for alternative sports and recreational provision, the benefits of which outweigh the loss.

4.1.2 The application site was formerly in use as a 'pitch and putt' site in connection with the adjacent 12-hole golf course. The 'pitch and putt' would be lost as part of the proposed development, albeit the golf course would remain fully open. 'Open space' is defined in the NPPF as:

"All open space of public value, including not just land, but also areas of water (such as rivers, canals, lakes and reservoirs) which offer important opportunities for sport and recreation and can act as a visual amenity".

4.1.3 Officers consider that the site meets this definition and therefore paragraph 99 of the NPPF is engaged.

4.1.4 Paragraph 99(a) requires that an assessment is undertaken which has clearly shown the land to be surplus to requirements. In addition to the originally submitted information, which was discussed in the previous committee report, the applicant has now provided a more comprehensive assessment.

4.1.5 Details of open space assessment:

The applicant's assessment notes the following matters. The pitch and putt facility closed in 2019, and since that time there has been no formal recreation use of the site. Since this time it has been listed as an Asset of Community Value, and then de-listed, with no bids coming forward from qualifying community groups to purchase the site for alternative recreational use. The applicant considers that extensive open space with a formal and informal recreational function would remain available locally, and draws attention to the proposals including a recreational element in terms of the health and fitness centre. The applicant considers that it is not the fact that the site is redundant as a pitch and putt facility that renders it surplus for an alternative recreational function; rather that no credible alternative has come forward (save for the current health and fitness proposal) and that there is an abundance and wide variety of recreational opportunity locally.

4.1.6 The pitch and putt site was bought by Shropshire Council in 1970 as part of a larger area of land and has been in its ownership since. There are no restrictions on the title relating to its use. There are no obligations to retain the land for open space, and the land is not held in trust. The Site had historically been used as a "pitch and putt" course associated with the adjacent Meole Brace Golf Club.

4.1.7 The pitch and putt site closed in 2019. The reason for this was that since 2011 there was a steady decrease in the number of people using the facility, from a peak of 2590 down to 1590 in 2015. This reduced number of attendees at the pitch and putt compares with the market trend in the falling popularity of golf during this period, with several golf clubs going into insolvency. In a bid to remain viable many private golf clubs who had suffered a fall in membership subscription and converted to 'pay and play' attracting younger members on subsidised subscriptions and members of the public wishing to enjoy their facilities. This trend continues today and is more acute, especially with the cost of living crisis and the cost of maintenance and energy forcing private clubs to attract membership with subscription benefits and incentives to sustain a financial future. These factors would have played a part in the demise of the 'pitch and putt'.

4.1.8 The facility was always properly maintained and marketed along with a number of initiatives to increase the custom including 2 for 1 deals, price reviews and various marketing campaigns, however, the popularity continued to decline and the facility was running at a deficit by more than 50% due to ongoing costs. The applicant considers that a 4 acre stand-alone Pitch and Putt course with no dedicated car parking and no additional facilities would not be profitable because it lacks the size, investment, variety and market appeal to stimulate enough demand for it to be viable.

4.1.9 In 2016 the Council's Cabinet approved the commencement of a public consultation on the potential cessation of the pitch and putt site, and this was held later that year to consider three options:

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- Option 1 – the sale of the site;
- Option 2 – to continue to operate and subsidise the site, including to introduce potential new activities to complement existing use;
- Option 3 – consider an alternative amenity/leisure use.

4.1.10 This consultation was made available online on the Council's Consultation Portal and via hard copies distributed to key stakeholders and the general public. The main responses from stakeholders were:

- Sport England : Sport England do not comment on proposals involving pitch and putt course but highlighted the importance of assessing any future application for development against the relevant local and national policies relating to the loss of sports facilities; and the opportunity for securing financial contributions towards other sports facilities redevelopment of the site could bring
- Meole Brace Golf Club: The Golf Club expressed their disappointment that the pitch and putt may be lost as a facility that provides a taster for entry into participation for golf. Their strong suggestion, should disposal take place, was for alternative 'beginner' facilities to be installed in a suitable location adjacent to the golf shop – practice nets, putting green, chipping green and bunker.
- Contract Manager - Meole Brace Golf Course: The Contract Manager considered that the pitch and putt was not viable as a standalone facility.
- Grounds Maintenance Contractor – Shrewsbury Town Council: Commented that consideration needs to be given to current access across the pitch and putt to the main golf course for essential greens machines. Asked that a maintenance strip to be retained to allow use of a tractor and flail.
- Individual Responses: All three responses agreed with Option 1 – Sale. They also asked that enhanced 'beginner' facilities be installed with some of the proceeds of disposal.

4.1.11 Following consideration of the outcome of this consultation, Cabinet resolved in 2017 that the pitch and putt site is "declared surplus to requirements and the marketing of the site is approved on the open market".

4.1.12 The report to Cabinet noted in its conclusion that "The results of the consultation demonstrate that although there would be some regret over the loss of the pitch and putt course, the main focus of the stakeholders was for some reinvestment back into the main golf course that could include aspects aimed at 'beginners' such as a putting green, chipping green/bunker and practice nets". The Cabinet resolution included approval of the retention of up to £50,000 from the capital receipt from the disposal of the site for improvements to the main golf course facility.

4.1.13 The report also acknowledged that the pitch and putt site was a registered Asset of Community Value (ACV). The consequence of this was that a formal process would need to be followed to give the nominating organisation, Friends of Meole Brace Golf Club, or other qualifying community body, time to confirm whether they wish to make a

bid for the site.

- 4.1.14 This formal process was undertaken in 2017. No qualifying bodies made a bid during the relevant six month period, and it is understood that the ACV listing was removed in 2019.
- 4.1.15 The applicant's assessment notes that there are numerous other open spaces and recreational areas for use by the public within close proximity of the site:
1. Meole Brace Golf Club
 2. Radbrook Valley Reserve
 3. Primrose Drive Recreational Ground
 4. Stanley Lane Recreational Ground
 5. Meole Rise Recreation and Playground
 6. Shrewsbury Hockey Club
 7. Shrewsbury Driving Range (within 3 miles / 6 minute drive)
- 4.1.16 The assessment further notes that the pitch and putt site has not been in operation for four years, and that the adjacent golf club, with 12-hole parkland course, will remain fully open and operational. Furthermore, that the proposals will provide for alternative sports and recreation provision in the form of a new gym facility.
- 4.1.17 The applicant's assessment identifies that from figures reported to Cabinet and Full Council in 2017, the maintenance costs for the pitch and putt course were 84.78% in excess of the revenue received. This produced an annual loss to the Council and the facility was costing nearly double the amount to operate and maintain than was received in income from paying customers.
- 4.1.18 The assessment highlights that the site is 'surplus to requirements' not simply because it was redundant as a pitch and putt facility but because of the provision of other sporting facilities. It notes that the Council's Strategy and Action Plan was published in 2020 and included an analysis of all outdoor and playing field facilities in the county. The report looked into the current capacity of different sports in the county and the likely level of future demand. Whilst it does not specifically reference golf, it does say that in terms of 'other sports', there is adequate existing provision and also adequate provision to address future demand to 2038.
- 4.1.19 Officer's assessment: Officers have considered the applicant's assessment in relation to the requirements of paragraph 99(a) of the NPPF. Officers accept that the demand for the facility had been falling for some years, and that this was in line with market trends for other golf facilities. The Council, as owner of the site, undertook an appropriate consultation to invite community views on the options for the future of the site. The responses to this consultation were taken into account as part of the Cabinet resolution to declare the site surplus to requirements and market the site on the open market. The requirement to invite bids for the site as it was a registered ACV was

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undertaken and this did not result in any bids coming forward. The site has been closed for four years. It has not been fenced off to exclude access but it is understood that the Council has not received any claims relating to public rights over it. There are numerous alternative recreation and open spaces within the local area which are available for public use. The Open Space and Recreational Needs Assessment which was undertaken on behalf of the Council in 2018 in support of the Local Plan review does not specifically reference the former pitch and putt site or pitch and putt provision generally. Furthermore, the Council's Strategy and Action Plan 2020 (Playing Pitch and Outdoor Sports Strategy), whilst not specifically referencing pitch and putt or golf, does indicate that provision for 'other sports' is adequate at present and sufficient for future demand.

4.1.20 On the basis of the above considerations Officers conclude that the assessment undertaken by the applicant demonstrates clearly that the site is 'surplus to requirements' and therefore the test in paragraph 99(a) of the NPPF is met.

4.1.21 As noted in the original committee report for the 2nd May meeting, as the proposal is considered to meet the test in paragraph 99(a) it does not need to meet the tests in (b) and (c). Notwithstanding this, the following comments are of relevance in relation to (b) and (c):

4.1.22 Paragraph 99(b) – the extent to which the loss is replaced by equivalent or better provision in terms of quantity and quality in a suitable location

In response to the consultation that was undertaken on options for the future of the pitch and putt site, which was carried out in 2016 and in to 2017, Sport England advised that whilst they do not comment on proposals involving pitch and putt, they would encourage the opportunity for securing financial contributions towards other sports facilities that the redevelopment of the site could bring. Similarly, the Meole Brace Golf Club suggested that alternative 'beginner' facilities are provided in a suitable location on adjacent land. As part of the Council's resolution to dispose of the land, it was agreed that a sum of money from the capital receipt from the sale of the site would be ring-fenced for improvements to the adjacent main golf course. The applicant has confirmed that these improvements would take the form of a reinvestment in the golf course and would include elements aimed at beginners such as a putting green, chipping green/bunker and practice nets. Potential areas for improvement are shown highlighted in purple and orange on the plan below. The applicant has advised that club members and staff would be consulted on the details of these additional facilities.

4.1.23 The Council's Assistant Director Commercial Services has confirmed by letter that the Council commits to investing £50,000 or a sum very close to £50,000 to complete the improvement works within a period of one year from the date the land sale completes. It should be noted that this is a commitment that has been made outwith the current planning application, and would be triggered by the sale of the land and not by any

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grant of planning permission. In addition, it is acknowledged that these improvements to the adjacent golf course cannot be considered to amount to 'equivalent or better provision'. Nevertheless, it is considered that it does constitute some degree of compensation for the loss of the open space and would benefit the golf course itself and improve golf opportunities in the wider area.



4.1.24 Paragraph 99(c) – the extent to which the development is for alternative sports and recreational provision, the benefits of which outweigh the loss

The existing pitch and putt facility was closed in 2019. The proposed development would result in the loss of the open space. It is proposed that the commercial element of the site includes the provision of a gym with an area of 979m². The proposal therefore would provide an alternative sports and recreation facility at the site.

4.2 Traffic assessment

4.2.1 The applicant's transport consultant has provided a technical note to address the request of Members for a review of the Traffic Assessment to consider busy times. Concerns over traffic impacts appear to relate primarily to the commercial element of the proposal. Officers do not consider that the care home element of the proposal raises significant highway and traffic implications. This is because, as explained in the

Travel Plan, residents are not expected to be car owners or drivers given their age and infirmity. The majority of car trips would therefore be likely to be by care home staff, visitors, emergency and delivery vehicles. It is considered that the access and egress arrangements are satisfactory to accommodate this level of use.

4.2.2 Concern has been raised that the applicant's Traffic Assessment was based upon data collected on one weekday in early April 2022 and that that it is unrepresentative and does not reflect the high traffic flow at Meole Brace roundabout at peak times, including weekends and holidays. Whilst it is true that the traffic survey was undertaken on one day, this formed part of a 7-day ATC survey which was undertaken throughout that week. The Assessment has taken into account the whole of the data collected, and includes consideration of peak period traffic flows. The methodology used includes a capacity assessment of the Meole Brace roundabout for a future year of 2029. The layout of the drive through elements takes account of the time taken for orders to be fulfilled and the Traffic Assessment explains that the drive-through lane for the Starbucks site could accommodate eight cars, and the KFC lane could accommodate 14 cars, with other spaces available if required, without vehicles stacking back into the car park.

4.2.3 As was explained in the original committee report, paragraph 111 of the NPPF states that development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe. The Council's Highways Officer has assessed the additional information and considers that it adequately demonstrates that the proposals are acceptable and that refusal of the application on the grounds that the cumulative impact of the development would be severe would not be justified.

4.3 Active travel

4.3.1 The further information that has been submitted by the applicant shows improved and separate cycle access into the site and plan, and how these link in with the active pedestrian and cycle routes around and connecting the site. The plans have been updated to show the improved and wider designated cycle entrance into the site, with a separate pedestrian route. The cycle route plan shows that the current designated cycle route only crosses one entrance to the site (see below).

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4.4 Drainage considerations

4.4.1 As part of the deferral, Members requested further information regarding foul discharge from the site. The applicant has advised that a blockage at the site has now been cleared and drainage issues that were associated with this have now been addressed.

4.4.2 In relation to foul drainage proposals, as explained in the original committee report, it is proposed that foul water from the development is disposed of to mains sewer. The applicant has made enquiries to Severn Trent Water (STW) in relation to existing infrastructure and records. STW has confirmed that the property is not recorded as being at risk of internal flooding due to overloaded public sewers. Details of proposals for dealing with foul drainage are included in the submitted Drainage Strategy which has been prepared by the applicant's drainage consultants. This states that as there are no adopted sewers within the immediate area of the development. It proposes that foul drainage would be connected to the existing network / pumping station that serves the adjacent health club. It states that alternatively, if this option is not viable, then foul drainage would discharge into the sewer network under an agreement with Severn Trent Water.

4.4.3 In response, the Council's Drainage team have recommended that a condition is imposed to require that the development does not take place until a scheme of surface

and foul water drainage has been submitted to and approved in writing by the Local Planning Authority. It is considered that the proposed arrangements for dealing with foul water are acceptable in principle and there does not appear to be any technical constraint to connecting to the public sewer network. Therefore it is considered that it is appropriate for detailed designs for foul (and surface) water drainage to be agreed as part of a planning condition. This would be worded to ensure that the development does not commence until an acceptable scheme has been approved, and this would be considered in consultation with the Council's drainage team taking into account the further advice which has been provided by that team. An appropriate condition was provided as condition 4 in Appendix 1 of the original committee report.

4.5 Other considerations

- 4.5.1 EIA Screening: The proposed development is of a type which falls within Category 10(b) of Schedule 2 of the Town and Country Planning (Environmental Impact Assessment) Regulations 2017, i.e. Infrastructure projects – urban development projects, including the construction of shopping centres and car parks, sports stadiums, leisure centres and multiplex cinemas. The proposal meets the applicable threshold for this category as the development includes more than 1 hectare of urban development which is not dwellinghouse development. The proposal therefore constitutes Schedule 2 development.
- 4.5.2 The proposed development has been considered against the selection criteria in Schedule 3 of the 2017 Regulations and also to advice contained in Planning Practice Guidance (PPG) on Environmental Impact Assessment. In relation to sites which have not previously been intensively developed the indicative criteria and thresholds set out in the PPG are that (i) the area of the scheme is more than 5 hectares; or (ii) it would provide a total of more than 10,000m² of new commercial floorspace; or (iii) the development would have significant urbanising effects in a previously non-urbanised area (e.g. a new development of more than 1,000 dwellings). The size and scale of the proposed development are significantly below these thresholds. Taking this into account, and other relevant matters, it is not considered that the proposed development would be likely to have significant effects on the environment by virtue of factors such as its nature, size or location. Therefore under Regulation 6 of the 2017 EIA Regulations, Shropshire Council adopts the Screening Opinion that the proposed development is not EIA development and that Environmental Impact Assessment is not required.
- 4.5.3 Health issues: Concerns have been raised through public consultation on this application that a fast food outlet, tanning salon or drive through coffee shop is conducive or in line with Shropshire Council's health recommendations aimed at reducing overweight and obesity levels. There are no specific planning policies which restrict the development of fast food or drive through facilities on health grounds. In terms of recent planning decisions, planning permission was granted in July 2023 for the erection of a restaurant and a coffee shop, both with drive-thru facilities (both

Class E(b) / Sui Generis), access, car parking, landscaping and associated work at Chartwell Business Park in Bridgnorth. In addition planning permission was granted in 2022 for the erection of a drive-through restaurant following demolition of existing restaurant at Old Potts Way in Shrewsbury. Officers do not consider that refusal of this application due to concerns over health implications would be warranted.

- 4.5.4 Need for care home: Objections have been received on the grounds that there is insufficient need for a care home. Issues relating to the need for care homes were discussed in sections 6.1.2-6.1.3 and sections 6.1.7-6.1.8 of the original Committee Report. With regard to the need for specialist housing (including Care Homes), Members should note that the Strategic Housing Market Assessment (SHMA) Part 2 includes an assessment of the need for specialist housing in Shropshire and does identify a need for additional Care Home provision over the period to 2038. Given that this site is located within the development boundary for Shrewsbury, it is considered that a Care Home in this location can contribute to meeting the longer term needs of Shropshire.
- 4.5.5 Retail impact assessment; need for food and drink outlets: Objections, including those by the Shropshire Playing Fields Association have referred to the need for a retail impact assessment and that there is no need for additional food and drink outlets. These matters were discussed in the original committee report, at paragraphs 6.1.2 – 6.1.3 and 6.1.9 – 6.1.13. Officers would re-iterate that the site lies within the development boundary of Shrewsbury. The site is not allocated for any specific purpose and represents a potential windfall opportunity, for which there is policy support in principle and there is no requirement *per se* to demonstrate a need for additional food and drink outlets. A Retail Assessment has been carried out and was discussed in the original committee report. Paragraph 6.1.2 concluded that the proposal would not have a 'significant adverse impact' on Shrewsbury town centre, which is the test required under SAMDev Plan policy 10b.

4.6 Amended recommended conditions

- 4.6.1 The original committee report recommended that, should planning permission be granted, this should be subject to the conditions included in Appendix 1. It is recommended that conditions 7 and 14 are amended as follows.

7.(a) Prior to the commencement of development of the retail, leisure and drive-through facilities, full engineering details of the egress onto Hazledine Way, and the Oteley Road slip road access and the pedestrian and cycle access at the western side of the site shall be submitted to and approved in writing by the Local Planning Authority. The retail, leisure and drive-through facilities development hereby permitted shall not be first brought into use or opened to trading until the Oteley Road slip road access, Hazledine Way egress and the pedestrian and cycle access for the retail, leisure and drive-through facilities has been constructed fully in accordance with the approved scheme.

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(b) Prior to the commencement of development of the Care Home, full engineering details of the Oteley Road slip road access and egress shall be submitted to and approved in writing by the Local Planning Authority. The Care Home shall not be occupied until the approved Oteley Road access and egress for Care Home has been constructed fully in accordance with the approved scheme.

Reason: To provide adequate means of access and egress from the site and in the interest of highway safety.

16. All trees which are to be retained in accordance with the approved plan shall be protected in accordance with the submitted Tree Protection Plan drawing number Arbtech TPP 01 and Method Statement, and in accordance with BS 5837: 2012 "Trees in relation to Design, Demolition and Construction recommendations for tree protection". The protective fence and temporary ground protection shall be erected prior to commencing any approved development related activities on site for each phase, including ground levelling, site preparation or construction. The fence shall be maintained throughout the duration of the development for each phase and be moved or removed only with the prior approval of the LPA.

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

5.0 Updated planning balance and conclusion

- 5.1 The additional information that has been submitted was in response to the issues raised by Members when the application was brought to planning committee on 2nd May 2023. Officers consider that this further information has satisfactorily clarified these issues. The updated assessment of the planning balance, and the conclusion, is as follows.
- 5.2 The proposed development would provide a mixed-use development of retail, leisure, restaurant, café, and residential care home within the development boundary of Shrewsbury. The care home would provide specialist housing for older people, the need for which national planning guidance states is 'critical', and the location for which is acceptable under Development Plan policy. The assessments undertaken as part of the planning application conclude that the proposed commercial element of the scheme meets the requirements of the sequential test in terms of its out of town centre location, and that it would not have a significant adverse impact on the town centre. The proposal is located on land which was formerly used as a 'pitch and putt' site. This site closed in 2019 and has now been identified by the Council as surplus to requirements. The proposal would lead to the loss of an area of open space and, in line with the requirements of the NPPF, an assessment has been undertaken. Officers consider that this assessment has clearly shown that the site is 'surplus to requirements' and that the proposal is not in conflict with NPPF paragraph 99(a). In addition the proposals would include the provision of an alternative recreation facility in terms of a gym on the site; and a commitment is in place to provide investment in the adjacent golf course to provide facilities on that site for beginners.

- 5.3 The proposed development is compatible with surrounding land uses and officers do not have any significant concerns in relation to its design and layout. Whilst the development would necessitate the removal of a number of trees from the site it is considered that there would be sufficient retention of existing vegetation, and appropriate compensatory planting, to ensure a satisfactory visual appearance in this location. The landscaping proposal would also provide biodiversity enhancements. The amount and quality of open space for the care home is appropriate. Whilst there may be additional opportunities to improve the sustainability credentials of the proposed scheme, it is considered that the development is acceptable in relation to existing policy.
- 5.4 The access and egress arrangements are acceptable in principle following modifications to the proposal, and the residual concerns can be addressed through further design work which can be agreed as part of planning conditions. In addition opportunities to maximise sustainable modes of transport can be agreed as part of a Travel Plan for the commercial units. The methodology used in the Transport Assessment is considered to be appropriate.
- 5.5 The proposal would result in economic and social benefits in terms of employment creation, investment, housing provision, and commercial development. It is predicted that the care home would create between 70 and 80 jobs. It would also provide biodiversity enhancements, and would therefore contribute towards sustainable development objectives. In conclusion it is considered that the proposal is acceptable in relation to Development Plan policies and it is therefore recommended that planning permission is granted subject to the conditions set out in Appendix 1.

8. Risk Assessment and Opportunities Appraisal

Risk Management

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

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

weeks after the grounds to make the claim first arose first arose.

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

Human Rights

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

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

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

Equalities

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

9. Financial Implications

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



<p><u>Committee and date</u></p> <p>Northern Planning Committee</p> <p>2nd May 2023</p>

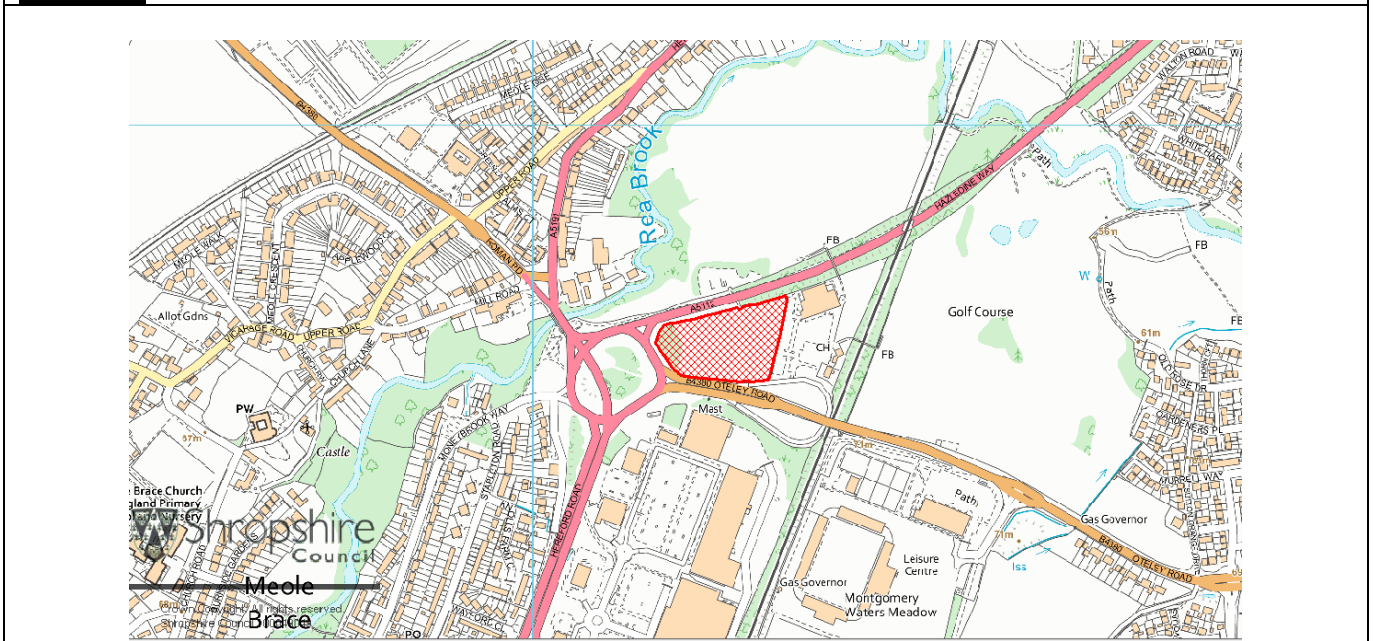
Development Management Report

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

Summary of Application

Application Number: 22/03877/FUL	Parish:	Shrewsbury Town Council
Proposal: Mixed use development including retail, gym, drive-thru coffee shop and drive-thru restaurant (use class E), tanning and beauty salon (sui generis), and residential care home (use class C2) together with access, parking, landscaping and associated infrastructure.		
Site Address: Proposed Commercial Development Land To The South Of Hazledine Way Shrewsbury Shropshire		
Applicant: Cordwell Leisure Developments (Shrewsbury) Ltd and Avery Healthcare		
Case Officer: Kelvin Hall	email: kelvin.hall@shropshire.gov.uk	

Grid Ref: 349286 - 310660



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REPORT

Recommendation: Delegate authority to the Planning and Development Services Manager to grant planning permission subject to the conditions listed in Appendix 1 and to any modifications to those conditions as considered necessary.

1.0 THE PROPOSAL

- 1.1 This application seeks planning permission for a mixed use development on land between Hazledine Way and Oteley Road in Shrewsbury. The proposal would include retail, gym, drive-thru coffee shop and drive-through restaurant (use class E), tanning and beauty salon (sui generis), and residential care home (use class C2) together with access, parking, landscaping and associated infrastructure.
- 1.2 The layout would be divided into two distinct elements. The western side would accommodate the mixed retail, leisure and drive through units; the care home would be on the eastern side.
- 1.3 Mixed retail, leisure and drive through units: At the northern side of this part of the site there would be a two-storey building comprising five retail units on the ground floor and a gymnasium on the first floor. The retail units would range in size from 111m² to 408m², and the gym would be 1013m². External materials would include glazing and grey brick on the ground floor, and black cladding and tinted glass for the gym above. At the southern side there would be two single-storey detached units: one would be a coffee shop (167m²) and the other would be a restaurant (240m²). Proposed materials would include timber cladding, dark metal cladding, and brickwork. Both of these units would have drive-through facilities. A substation would be situated on the western side of the site and have a height of up to 3.15 metres. A shared car parking area would be provided in the centre of this part of the site, and further parking spaces adjacent to the drive-through units, with a total of 100 spaces. Vehicular access to this part of the site would be provided via a new entrance off Oteley Road to the south, with the egress being onto Hazledine Way to the north via a new exit road.
- 1.4 Residential care home: This would provide 80 bedrooms across two and three floors with communal facilities including lounge and dining areas, a cinema room, library, and therapy rooms. The total internal floorspace would be 4684m². The application documents state that it is anticipated that the proposal would provide care for older people, respite care; dementia care; and convalescence care. Staffing would be provided 24 hours a day, and it is anticipated that there would be approximately 55 full time employees. The building would be 'S' shaped, with a design that includes stepped facades, flat roofs and balconies. The external materials would include a mix of brickwork, render and cladding. The bedrooms would be a minimum of 15m² with en-suite facilities.
- 1.5 Open space would include informal lawn, a communal garden with seating areas, an events lawn and a therapy garden. There would be 38 car parking spaces and

facilities for cycle parking. Vehicular access would be provided via a new entrance point from the existing service road off Oteley Road which leads to the Bannatynes car park. The exit would be back onto Oteley Road via the existing service road. This loops underneath Oteley Road and brings traffic back onto the westbound carriageway close to the Meole Brace roundabout.

1.5 Modifications

Since the application was originally submitted, the following further information and modifications have been provided:

- Ground Investigation reports to establish the prevailing ground conditions
- Statement in response to concerns raised by the Town Council
- Further information in response to matters raised in relation to ecology, trees, highways, open space and design considerations
- Revised layout plan to address highways concerns regarding egress from the site
- Plans to clarify tree retention proposals
- Additional landscaping information
- Sustainability checklists
- Waste audit statements
- Coal Mining Risk Assessment report
- Modification to site boundary to incorporate a track for use by Town Council maintenance vehicles
- Stage 1 Road Safety Audit
- Additional information relating to drainage strategy

2.0 **SITE LOCATION/DESCRIPTION**

2.1 The application site is located on a parcel of land between Hazledine Way and Oteley Road in the Meole Brace area of Shrewsbury. Those two roads form the northern, western and southern boundaries of the site. To the east is the Bannatynes Health Club and Spa. Further afield to the north and east is the Meole Brace Golf Course; to the south is the Meole Brace Retail Park; and to the west is a roundabout beyond which the land is in residential use. The site comprises an area of grassland with mature trees and hedgerow around its boundaries, extending to an area of approximately 1.6 hectares. The site was previously used as a “pitch and putt” course associated with the adjacent Golf Club. That use ceased in 2019.

3.0 **REASON FOR COMMITTEE DETERMINATION OF APPLICATION**

3.1 The proposal is on land which is owned by Shropshire Council and relates to development which is not in line with the Council’s statutory functions. Under the Council’s scheme of delegation such applications are required to be determined by Planning Committee.

4.0 **Community Representations**

4.1 -Consultee Comments

4.1.1 **Shrewsbury Town Council** Objects. The Town Council objected to this application on the grounds of overdevelopment, concerns about highways and the lack of green

space proposed for the care home. The Travel Plan provided is incorrect and needed further investigation, e.g., it states that buses to the site will be available at night and gives inaccurate travel times to the station and town centre. Active travel to the site also needed to be considered further as the plans are currently very car centric. Members felt that the development was 'crammed on' to a small site. There did not appear to be enough provision for pedestrians to cross nearby roads and Members respectfully requested that SC Highways investigate this further. It was felt that the proposed exit road on to Hazeldine Way was dangerous as the road had a speed limit of 50mph.

The application was also objected to on operational grounds for Shrewsbury Town Council. The Municipal Golf Course is divided by Hazeldine Way. Small ride-on Golf Course specialist maintenance vehicles and equipment access the disused Pitch and Putt Course down a narrow track and cross Hazeldine Way via the field gate positioned in the boundary hedge. No provision for this access appeared on the plans to allow vehicles safe access onto the course from the Golf Course Depot Facilities positioned next to Ballantynes. The current plans isolate the access to the course from the Maintenance Depot which contained all the specialist course vehicles and machinery. The current proposals would direct all maintenance machinery around the busy Meole Island, the equipment is slow and not designed for daily road use.

The land has a well-established natural mixed buffering screen, forming a natural hedge, this should be protected and retained. The boundary contains a mixture of well - established trees which should be protected with TPOs, and Members respectfully requested that the Tree Officer from Shropshire Council investigate this. The removal of any of the hedge for access roads should be limited to the minimum width required and large swathes of hedgerow removal should be avoided.

It was reported that the site also had issues with travellers gaining unlawful access and it was suggested that deterrents are put in place to prevent unauthorised encampment.

It was suggested, with many of the building designed with flat roofs, this provided a great opportunity to green these with permanent planting to reduce the carbon footprint of the development.

The grounds of the Care Home also had the opportunity to create some wetland areas to encourage biodiversity in and around the conservation areas proposed, developing a sustainable drainage system.

4.1.2 **SC Conservation** No response received.

4.1.3 **SC Archaeology** No comments to make on this application with respect to archaeological matters.

4.1.4 **SC Regulatory Services** No objection.

The following reports have been submitted in support of this planning application:

- GIP Ltd; Phase I Geotechnical and GeoEnvironmental Assessment for a Proposed Commercial Development at Meole Brace Golf Course, Oteley Road, Shrewsbury; 13th October 2016, AP/25197 FINAL;
- GIP Ltd; Ground Investigation Report for a Proposed Residential & Commercial Development at Meole Brace Pitch & Putt, Oteley Road, Shrewsbury; for Cordwell Property Group; 17th April 2020, Ref. 27805 FINAL.

The results of the investigation in respect of soil contamination have not identified any significant risks to human health and therefore no further assessment is required.

A potential risk from ground gas has been identified and Environmental Protection has requested that a separate Mine Gas Risk Assessment is necessary in order to ensure that all potential risks are assessed.

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

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

For all new development located within the defined coal mining areas (i.e., Development Low Risk Areas and Development High Risk Areas), the Local Planning Authority will require a Mine Gas Risk Assessment (MGRA) to be undertaken by competent, qualified and experienced mine gas risk assessors, in accordance with current guidance and industry best practice e.g., Environment Agency (EA) 'Land Contamination Risk Management (LCRM)' guidance and CL:AIRE, 2021 'Good Practice for Risk Assessment for Coal Mine Gas Emissions' (ISBN 978-1-905046-39-3). Competence must be demonstrated in accordance with current guidance and industry best practice. A 'Decision Support Tool' is included in the CL:AIRE guidance to assist in the process.

Accordingly, as the proposed development site is located in both a Development Low and High Risk Area, Environmental Protection recommends that a condition is added to the decision notice if permission is granted to require that a mine gas risk assessment is submitted and approved.

Further comments: The further report that has been submitted does not constitute a Mine Gas Risk Assessment having regard to the October 2021 CL:AIRE guidance. A detailed risk assessment is required.

4.1.5 **SC Ecology** Recommends conditions.

The survey work carried out is acceptable. The preliminary ecological appraisal and

preliminary roost assessment carried out by Arbtech (January 2022) found no evidence of protected or notable species during the PEA and PRA. Suitable habitat for nesting birds was identified within the boundaries and scattered trees on site. Two ponds were identified within 500m. These are not considered to be impacted by the proposed development. No further surveys were recommended.

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 and bird boxes will enhance the site for wildlife by providing additional roosting and nesting habitats. Other ecological enhancements are also recommended.

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

- Submission of Construction Environmental Management Plan for approval
- Provision of bat and bird boxes
- Prior approval of external lighting
- Submission of landscaping plan for approval
- Work to take place in accordance with method statement

4.1.6 **SC Trees** Recommends conditions.

Further to this team's previous comments on this site it is noted that the updated landscaping proposals for the care home element of the scheme now include the requested woodland type planting of native shrub and tree species to compensate for loss of trees, provide a stronger boundary treatment and offer long-term biodiversity gains.

Should this application be approved it is recommended that conditions are imposed to require that the trees that are to be retained are protected during development works; that a tree specialist shall be appointed to undertake supervision and monitoring of the tree protection fencing and ground protection measures; and that all services are routed outside the root protection areas unless a detailed method statement and task specific tree protection plan has been approved.

4.1.7 **SC Highways** No objections.

The following highway comments reflect the updated layout plan and additional information.

From a highway aspect, whilst there remains some concerns regarding the egress onto Hazeldine Way, it is considered that this can be dealt with as part of the Section 278 process, which will include the full submission of engineering details and Road Safety Audit process that will identify and resolve any highway safety and mitigation measures required prior to any development being commenced. Key therefore will be

to ensure that the Section 278 process is undertaken prior to any works commencing on site.

As indicated in earlier comments, the Care home proposals now allow for both entry and exit off the current slip road arrangement serving the Gold Course and Bannatynes Gym. This also provides potentially emergency access from the western development site.

A minor amendment to the scheme is required in terms of the proposed pedestrian routing into the site on the western side of the site and linking with the current cycleway to ensure that cyclists can be fully accommodated as well as pedestrians.

Whilst highways therefore have no objection to consent being granted, conditions should be imposed to cover the following matters:

- Submission of full engineering details of access and egress onto Hazledine Way and Oteley Road; no use of development until Hazledine egress has been completed
- Completion of surfacing, car parking areas and road layout prior to first use
- Submission of Construction Traffic Management Plan/Construction Method Statement and phasing plan for approval prior to commencement
- Upon first use of the care home, implementation of Travel Plan which shall remain in force for the lifetime of the development
- Submission of Travel Plan for the retail and leisure units and drive through units for approval

Background comments: The proposal seeks to develop the former Pitch & Putt facility that was complementary to Meole Brace Golf Course and developing into a Care Home on the eastern side of the site and food restaurant/Drive Thro on its western side. The 2 distinct development halves would be accessed from the slip road that current serves Bannatynes and Golf Course with exit left turn only onto Hazledine Way. It is not possible to realistically achieve a right turn option out onto Hazledine Way and this has been previously assessed. A Transport Assessment (TA) has been submitted in support of the application proposal and a Stage 1 Road Safety Audit (Stage 1 RSA) carried out to assess the highway safety implications of development proposals.

The site layout effectively results in a left in and left out of the site as there is no potential to provide a right turn onto either Hazledine Way or Oteley Road. In reality what this means is that any driver leaving the site wishing to travel along Hazledine Way in an easterly direction or Oteley Road in an easterly direction, would have to use Meole Brace Roundabout as the 'U' turn. All other movements can be accommodated. Whilst undesirable, this is not a substantive concern providing that entry and exit to and from the site are fit for purpose and do not raise adverse highway safety concerns.

The TA concludes that the development traffic can be adequately accommodated on the highway network. The highway authority have no material grounds to dispute this

point or the overall findings of the TA, however the main issue to address is both the entry and exit of the site and in this regard a Stage 1 RSA has been carried out. This concludes that there are no identified safety issues raised as regards the entry points. With regard however to the Care Home there is the potential option that both entry and exit onto the slip road is achievable and should be considered. [Note: revised plans have now been submitted to show an additional exit from the care home back onto Oteley Road].

Exit onto Hazeldine Way represents the greater challenge to ensure that safety is not compromised and to prevent any exiting traffic being able to turn right. The Stage 1 RSA indicates that Hazeldine Way is subject to a 40mph speed limit. This is incorrect as the speed limit is 50mph. For the left out manoeuvre adequate visibility is achievable, with the access designed to cater for all vehicle types. The speed limit would however need to be assessed as part of the detailed design and Section 278 Agreement. This would include the inclusion of the central island to restrict the left turn manoeuvre and prevent any right turn off Hazeldine Way into the site. Again this would be the subject of the 278 Agreement design check and Stage 2 RSA. Point A4.1.1 raises a concern regarding pedestrians/cyclists potentially crossing at the kerbed island and this has not been addressed as part of the current submission and would be best considered at this juncture rather than at the detailed design stage.

- 4.1.8 **SC Drainage** Outline drainage details have been supplied in the Meole Brace, Shrewsbury Flood Risk Assessment and Drainage Strategy report.

In order to develop the surface and foul water designs to satisfy the LLFA's requirements, reference should be made to Shropshire Council's SuDS Handbook which can be found on the website at <https://shropshire.gov.uk/drainage-and-flooding/development-responsibility-and-maintenance/sustainable-drainage-systems-handbook/>

The Appendix A1 - Surface Water Drainage Proforma for Major Developments must also be completed and submitted with the application.

- 4.1.9 **SC Planning Policy** No response received.

- 4.1.10 **SC Affordable Housing** No response received.

- 4.1.11 **Sport England** No objection. The proposed development does not fall within either our statutory remit (Statutory Instrument 2015/595), or non-statutory remit (National Planning Policy Guidance (PPG) Par. 003 Ref. ID: 37-003-20140306), therefore Sport England has not provided a detailed response in this case, but would wish to give the following advice to aid the assessment of this application.

General guidance and advice can however be found on our website:
https://www.sportengland.org/how-we-can-help/facilities-and-planning/planning-for-sport#planning_applications

If the proposal involves the loss of any sports facility then full consideration should be given to whether the proposal meets Para. 97 of National Planning Policy Framework (NPPF), link below, is in accordance with local policies to protect social infrastructure and any approved Playing Pitch Strategy or Built Sports Facility Strategy that the local authority has in place.

[Case Officer note: the relevant paragraph of the NPPF is 99, not 97 as quoted above.]

If the proposal involves the provision of a new sports facility, then consideration should be given to the recommendations and priorities set out in any approved Playing Pitch Strategy or Built Sports Facility Strategy that the local authority may have in place. In addition, to ensure they are fit for purpose, such facilities should be designed in accordance with Sport England, or the relevant National Governing Body, design guidance notes:

<http://sportengland.org/facilities-planning/tools-guidance/design-and-cost-guidance/>

If the proposal involves the provision of additional housing (then it will generate additional demand for sport. If existing sports facilities do not have the capacity to absorb the additional demand, then new and/or improved sports facilities should be secured and delivered in accordance with any approved local policy for social infrastructure, and priorities set out in any Playing Pitch Strategy or Built Sports Facility Strategy that the local authority has in place.

In line with the Government's NPPF (including Section 8) and PPG (Health and wellbeing section), consideration should also be given to how any new development, especially for new housing, will provide opportunities for people to lead healthy lifestyles and create healthy communities. Sport England's Active Design guidance can be used to help with this when developing or assessing a proposal. Active Design provides ten principles to help ensure the design and layout of development encourages and promotes participation in sport and physical activity.

4.2. -Public Comments

4.2.1 The application has been advertised by site notice, and also in the local press. Three public representations have been received, objecting to the application on the following grounds:

- Inadequate measures to encourage active travel
- Impact on cycle and pedestrian path from creation of vehicle access onto Oteley Road; safety hazard
- No entrance to the site for cyclists from Hazledine Way
- Inadequate Travel Plan
- Transport Assessment does not assess impacts on the Meole Brace island on weekends, when the traffic is at its worst
- Insufficient consideration to impact on children travelling down Oteley Road to schools and other pedestrians; dangerous entry and exit points
- Dismal outlook of care home onto commercial development

- Facilities for younger generation like swimming pools, community halls etc. required
- Opening up additional fast food eateries is doing little to encourage a healthy society
- Concern over tree removal and impact on wildlife
- Concern over additional car journeys
- Policies encourage an increase in walking and cycling for short journeys

5.0 THE MAIN ISSUES

- 5.1
- Principle of development
 - Design, scale and character
 - Historic environment consideration
 - Residential and local amenity considerations
 - Highways and access considerations
 - Ecology issues
 - Water resources and pollution issues
 - Affordable housing
 - Planning balance

6.0 OFFICER APPRAISAL

6.1 Principle of development

6.1.1 Planning applications are to be determined in accordance with the Development Plan unless material considerations indicate otherwise. The Development Plan includes the Core Strategy and the SAMDev Plan. The National Planning Policy Framework (NPPF) and national planning practice guidance are material planning considerations. In terms of emerging planning policy the draft Shropshire Local Plan (2016 – 2038) was submitted to the Secretary of State for examination on 3rd September 2021. Stage 1 hearing sessions covering legal and strategic issues took place in July 2022. Stage 2 hearing sessions which are likely to focus on the development management policies and site allocations are to take place during 2023. Given the stage of plan preparation it is considered that some limited weight can be given to relevant draft policies in the draft Shropshire Local Plan, as a material consideration in the decision making process.

6.1.2 Locational considerations: Core Strategy policy CS1 states that Shrewsbury will be the focus for significant retail, office and employment development, and will accommodate 25% of Shropshire's residential development over the plan period. Policy CS2 and policy S16.1 set out the development strategy for Shrewsbury, with particular emphasis on development coming forward within allocated sites and sites within the Development Boundary. The application site lies within the Development boundary for Shrewsbury, and therefore the proposal accords with the general settlement strategy for the town as set out in the above policies.

6.1.3 In terms of draft policies the site lies with the proposed Shrewsbury Development Boundary as shown on plans forming part of the draft Local Plan. The draft Plan does not propose to allocate the application site for any specific purpose. Draft Settlement policy S16.1 provides for new residential development to take place on residential and

mixed-use allocations, and states that this will be complemented by residential and mixed-use development opportunities within the development boundary, particularly the town centre.

- 6.1.4 Former use of site: Paragraph 99 of the NPPF states that existing open space, sports and recreational buildings and land should not be built on unless (a) an assessment has been undertaken which has clearly shown the land to be surplus to requirements; or (b) the loss is replaced by equivalent or better provision; or (c) the development is for alternative sports and recreational provision, the benefits of which outweigh the loss.
- 6.1.5 The proposed development would result in the loss of land previously used as a “pitch and putt” but the adjacent golf club, with 12-hole parkland course, will remain fully open and in operation. The “pitch and putt”, which is owned by Shropshire Council, closed in 2019 due to being surplus to requirements. The Council’s Commercial Performance and Project Manager has confirmed that alternative options were explored before the land was identified as surplus to requirements, and efforts for community transfer yielded no interests from community organisations. At its meeting in March 2017 the Council’s Cabinet assessed options for the pitch and putt course and resolved that the facility is declared surplus to requirements. Cabinet also agreed to the marketing of the site on the open market. The site had been registered as an Asset of Community Value (ACV). The required steps to allow community bodies to come forward to make a bid for the asset were taken. No qualifying bodies made a bid during the relevant six month period, and it is understood that the ACV listing was removed in 2019. In view of this and the formal decision of Cabinet, it is considered that the land has been clearly shown to be ‘surplus to requirements’ and therefore the test in the paragraph 99(a) of the NPPF is met.
- 6.1.6 As the proposal meets the test in paragraph 99(a) it does not need to meet the tests in (b) and (c). However the proposal would provide for alternative sports and recreation provision in terms of a gym facility. Therefore, notwithstanding that the pitch and putt facility has been closed for some years and is surplus to requirements, the proposed gym would nevertheless ensure that there would be some recreational facility in this area. In addition, it should be noted that there is no identified need in the Council’s Playing Pitch and Outdoor Sports Strategy (PPOSS) for ‘pitch and putt’ provision in Shropshire. Overall, it is considered that there are no significant issues raised in respect of the principle of an alternative use for the land.
- 6.1.7 Locational consideration – care home: Core Strategy policy CS11 supports the provision of specialist housing, including residential and extra care facilities, in appropriate locations where there is an identified need. The NPPF includes policy to significantly boost the supply of homes and recognises the importance of meeting the specific housing needs of certain groups including the elderly. National planning practice guidance on Housing for older and disabled people states that “the need to provide housing for older people is critical”. The location for this care home within the Development boundary is acceptable in principle.

- 6.1.8 The national planning practice guidance on Housing for older and disabled people states that development should address the needs of people with disabilities and reduced mobility. The site lies within an accessible location, close to services and facilities. There are numerous footways and cycleways which provide options to gain access to these. This would reduce the need for reliance on private or other vehicles to achieve connectivity.
- 6.1.9 Location – commercial element: Policy CS2 highlights the importance of the Meole Brace retail park and notes that it has scope for enhancement and expansion if required. It should be noted that the application site lies adjacent to the retail park but does not form a part of it. Policies CS2 and CS15 seek to maintain and enhance the vitality and viability of the town centre, and advocates a sequential approach to site selection. This means that only if suitable sites are not available in the town centre should out of centre sites be considered.
- 6.1.10 The NPPF sets out the appropriate tests to ensure town centre uses in out of centre locations are acceptable and do not have significant adverse impacts. It states that retail and leisure development outside town centres which are not in accordance with an up-to-date plan should include an impact assessment. This should include the impact of the proposal on investment in centres in the catchment of the proposal, and the impact of the proposal on town centre vitality and viability. SAMDev Plan policy MD10b requires that an impact assessment is required for new retail, leisure and office proposals which are outside the town centre, and not in accordance with the area's settlement strategy, and have a floorspace which exceeds 500m².
- 6.1.11 A Retail and Centres Assessment forms part of the application. This includes a sequential test. This notes that the retail and service element of the proposed development would only perform a relatively local function, helping to meet the needs of those living in the southern part of Shrewsbury. The proposed gym would perform a general health and fitness function offering a mixture of equipment and classes. It is not the intention for it to be a specialised facility. The proposed food and beverage outlets would provide a drive-through function. In terms of the overall development proposed the assessment states that it would include approximately 1,931m² of retail and leisure space and that this, taking into account the multiple units, cannot be accommodated elsewhere. The assessment has considered other sites sequentially and identifies that they do not represent suitable and available alternatives for development of the type proposed. It therefore concludes that the proposal meets the requirements of the sequential test.
- 6.1.12 In terms of potential impacts on investment in the town centre the assessment notes that a comprehensive scheme of redevelopment of the town centre is planned. It notes that there is no drive-through provision in the town centre and that there is a wide range of food and beverage outlets in the town centre. It states that health and fitness facilities are heavily concentrated in the northern part of the town, and that the retail elements would be likely to perform a local function. The units would not be of a sufficient size for a larger supermarket; and would not compete directly with the town centre. It states that it would more likely divert trade from the Meole Brace retail park.

Officers concur with the findings of the Retail and Centres Assessment and consider that the sequential test is met and that the proposal would not have a 'significant adverse impact' on Shrewsbury town centre. The proposed commercial element is therefore acceptable in principle in this location.

6.1.13 In summary, the proposed commercial units and care home can be supported in this location in principle.

6.2 Design, scale and character

6.2.1 Core Strategy policy CS6 seeks to ensure that development is appropriate in scale and design taking into account local context and character, having regard to landscape character assessments and ecological strategies where appropriate. It states that development will be designed to a high quality using sustainable design principles. Policy CS17 also seeks to protect and enhance the diversity, high quality and local character of Shropshire's natural environment and to ensure no adverse impacts upon visual amenity, heritage and ecological assets. SAMDev Plan policy MD2 requires that development contributes to and respects locally distinctive or valued character and existing amenity value, and demonstrates how good standards of sustainable design and construction have been employed.

6.2.2 Care home: The care home building would have two and three storeys forming an 'S' shape. It would include flat roofs, stepped facades and other external features such as balconies and glazed balustrades. The materials palette would include a mix of brickwork, render and cladding. These would provide visual interest, helping to break up the elevations and reducing the apparent massing. It is considered that the design is appropriate for the area.

6.2.3 The bedrooms would be a minimum of 15m² with en-suite facilities. The application states that this is in excess of standards which require 12m². The bedrooms and communal areas would outlook onto surrounding open space and/or existing vegetation. The trees and hedgerow between the proposed building and the public highway to the north are to be retained, and it is considered that there would be a satisfactory buffer to avoid adverse amenity from noise from traffic. The siting and internal layout is considered to be acceptable. Overall it is considered that the care home would present a contemporary design with an attractive appearance, appropriate to its local context.

6.2.4 Retail and gym; drive-through units: The proposed retail and gym building, and coffee shop and restaurant building, would have an appropriate design for their commercial function, and be of a scale which would be capable of being assimilated within the landscape without dominating the area. The coffee shop and restaurant would have one-way vehicle flow routes for the drive-through elements, and separate parking space for customers consuming on the premises. It is considered that this commercial element of the proposed development would have an acceptable layout, with a modern design, and officers raise no specific concerns in terms of its appearance.

6.2.5 Trees and open space: The application is supported by a tree report which includes a

tree survey, constraints plan, arboricultural impact assessment, method statement and tree protection plan. The submitted documents provide an assessment of the existing trees on the Site and identifies the associated root protection zones.

- 6.2.6 The site benefits from existing mature trees and hedgerow around its perimeter, and this includes a thick belt of trees on the western side. The proposals have been designed to retain the existing perimeter trees and hedgerow on the site where possible. Nevertheless it would result in the removal of 18 individual trees and the partial removal of 3 mixed groups and hedges. The accompanying arboricultural assessment confirms that no protected or notable trees would be removed. However the Council's tree officer notes that there would be a large loss of canopy cover of mainly B category trees. The majority of the perimeter hedgerow would be retained. Small sections would be removed to provide the required pedestrian and vehicle access. In addition a belt of trees would be retained along the western boundary of the site where this faces onto the Meole Brace roundabout.
- 6.2.7 In response to comments from the Council's tree officer the landscaping proposals have been amended to include woodland-type planting of native shrub and tree species. The submitted plans indicated that landscaping would also include new hedgerow, specimen trees, herbaceous planting and grassed areas. This would include 45 standard trees and extensive areas of mixed native species hedgerow. The Council's tree officer considers that the revised landscaping would compensate for the loss of trees. It is considered that tree retention along with additional planting would ensure that there remains a good vegetated boundary to the site which would help to screen the development and soften its appearance. Precise details of landscaping proposals can be agreed as part of a planning condition.
- 6.2.8 It is considered that the development as a whole would have a satisfactory layout. The commercial and the care home elements would be developed separately but would integrate satisfactorily in visual terms. The provision of built development as a replacement to an area of open land would result in significant changes to the visual character of the area. However, the design and scale of the proposal, in conjunction with the landscape retention and new planting, would ensure a satisfactory visual appearance, compliant with Core Strategy policies CS6 and CS17, and SAMDev Plan MD2.
- 6.2.9 Open space: In relation to open space provision, SAMDev Plan policy MD2 seeks the provision of adequate open space of at least 30m² per person that meets local needs in terms of function and quality and contributes to wider policy objectives such as surface water drainage and the provision and enhancement of semi natural landscape features. It states that for developments of 20 dwellings or more, this should comprise an area of functional recreational space for play, recreation, formal or informal uses including semi-natural open space.
- 6.2.10 The care home development would provide a variety of outdoor spaces for residents and staff. These would allow opportunities for walking, sitting, outdoor eating, events and gardening. These areas would be linked by paths. The gardens would include

ornamental and native planting. In total this would amount to approximately 46% more open space that is indicated by policy MD2. It is considered that the open space proposed is satisfactory in terms of quality and quantity as sought under this policy.

6.2.11 Sustainability considerations: The application is accompanied by a Sustainability Checklist as required under policy CS6, and a Sustainability Strategy. The proposed care home has been designed to provide a 5% reduction of energy demand beyond Building Regulations requirements. Air source heat pumps are to be used on site. Electric vehicle charging points are to be provided. Low energy light bulbs are to be fitted, and white goods would achieve the highest energy efficiency ratings. Cycle parking would be provided, both to the care home and separately to the retail units. Alternative, renewable options for power requirements, such as solar pv and wind turbines, have been investigated but have been discounted. The Sustainability Checklist states that the relatively low wind speeds would not make this a viable option. It states that the retail proposal at this stage is being provided as “shell only” and therefore renewable options may be taken forward by individual tenants. In relation to comments from the Town Council the applicant has set out the constraints to providing green roofs to the development and these include the space required for plant, and access issues for safe maintenance. Policy DP11 of the draft Shropshire Local Plan seeks to raise standards that development proposals should meet in terms of environmental credentials, however given the stage of plan preparation and the representations that have been received in relation to this draft policy it is considered that limited weight can be given to this at the current time. In relation to current policy expectations and requirements, it is considered that the proposed development incorporates a satisfactory level of sustainable design elements and is in line with Core Strategy policy CS6. Further comment on this is included in the planning balance section below.

6.3 Historic environment considerations

6.3.1 Core Strategy policy CS17 requires that developments protect and enhance the diversity, high quality and local character of Shropshire’s historic environment. SAMDev Plan policy MD13 requires that heritage assets are conserved, sympathetically enhanced and restored by ensuring that the social or economic benefits of a development can be demonstrated to clearly outweigh any adverse effects on the significance of a heritage asset, or its setting.

6.3.2 The site does not lie within a Conservation Area. Given the distance to the nearest heritage assets, it is not considered that the proposal would adversely affect the setting of any listed building or adversely affect the character or appearance of any Conservation Area.

6.4 Residential and local amenity considerations

6.4.1 Core Strategy policy CS6 states that development should safeguard residential and local amenity. The site lies adjacent to existing areas of commercial development and to busy traffic junctions. The nearest residential properties are some distance away and the proposal would not result in adverse impacts on residential amenity. The proposal adopts a relatively self-contained layout. There would be some localised

impacts on amenity in the area due to the intensification of the use of the land. This includes the additional traffic that would use the existing entrance and exit to/from Bannantynes. However it is not considered that this would be unacceptable. The layout of the care home has been designed so that those rooms that are closest to the commercial units would not contain bedrooms, in order to minimise any adverse impacts to residents from proximity to and outlook on the retail activities. These parts of the building would house the kitchen, laundry and offices. It is considered that the nearest bedrooms would be a sufficient distance from the commercial units to maintain an acceptable level of residential amenity, in line with Core Strategy policy CS6.

6.5 Highways and access considerations

- 6.5.1 Core Strategy policy CS6 requires that all development is designed to be safe and accessible. SAMDev Plan policy MD8 states that development should only take place where there is sufficient existing infrastructure capacity. Policy CS6 of the Core Strategy identifies a number of key requirements in order to achieve sustainable places which are inclusive and accessible. This includes: “Requiring proposals likely to generate significant levels of traffic to be located in accessible locations where opportunities for walking, cycling and use of public transport can be maximised and the need for car based travel to be reduced” and “...ensuring that all development: Is designed to be adaptable, safe and accessible to all...”. Paragraph 111 of the NPPF states that development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe.
- 6.5.2 For the commercial units, vehicles would follow a one-way system with access to be gained from Oteley Road and the exit being via a new connection onto Hazledine Way. The access would be at a point shortly before the existing slip road to the Bannantynes health centre and the golf club. The Council’s highways officer has confirmed that this access is acceptable. A Stage 1 Road Safety Audit has been undertaken in respect of this exit arrangement. Whilst officers consider that the proposed exit is acceptable in principle, the highways officer has advised that some concerns do remain but that these can be dealt with as part of the Section 278 agreement process which will be required in connection with alterations to the public highway. Officers consider that these matters can be satisfactorily addressed and that therefore it would be appropriate impose conditions to require that full engineering details are submitted for approval.
- 6.5.3 In response to comments from the Council’s Highways Officer the access arrangements for the proposed care home have been updated so that it now provides an exit as well as an entrance onto Oteley Road. It is considered that this arrangement is acceptable.
- 6.5.4 No concerns have been raised by the Council’s Highways Officer in relation to the number of car parking spaces being proposed for each element of the mixed use scheme. The application states that developments of this kind would usually need to provide a minimum of one space per three registered care beds.

6.5.5 The Travel Plan identifies that the nearest bus stop is located close by on Hereford Road, and bus services operate Monday to Saturday. These services would ensure that alternative transport options to private vehicles are available to staff and customers to and from the site. The site integrates with the existing pedestrian and cycle routes in the local area, including the network of paths around the Meole Brace roundabout. Bicycle parking and storage is proposed within the site layout. A Travel Plan for the care home has been submitted. It is considered that this is acceptable and a condition can be imposed to require that this is adhered to. A framework Travel Plan for the commercial units has been submitted and a planning condition can require that a more detailed one is submitted for approval to ensure that the use of sustainable modes of transport are maximised.

6.5.6 Access for Town Council maintenance vehicles: The Town Council has raised concerns over the impact of the proposal on the existing route used by its maintenance vehicles to travel between its depot and the adjacent golf course. The proposal as originally submitted would have severed this route and required maintenance machinery to use the Meole Brace roundabout to travel between the two sites. Following a site meeting a solution has been identified and the site layout has now been modified to provide a dedicated access track to the rear of the care home. The Formal Space Manager of the Town Council has informally confirmed that this arrangement is satisfactory and that it meets their needs for the movement of maintenance machinery.

6.6 Ecology issues

6.6.1 Core Strategy policy CS17 (Environmental Networks) seeks to protect and enhance the diversity, high quality and local character of the natural environment, and to avoid significant adverse impact on environmental assets. SAMDev Plan policy MD2 requires that development enhances, incorporates or restores natural assets.

6.6.2 The submitted Preliminary Ecological Appraisal (PEA) and Preliminary Roost Assessment (PRA) confirm that the proposed development would have no direct impact on any designated sites, and found no evidence of protected or notable species. Suitable habitat for nesting birds was identified within the boundaries and scattered trees on site. Two ponds were identified within 500m, but these were not considered to be impacted by the proposed development. Neither the PEA nor the PRA recommend that further surveys are undertaken.

6.6.3 The Council's ecology team consider that the survey work that has been carried out is acceptable. They have recommended that a number of planning conditions are imposed to avoid ecological impacts during the construction phase and to provide biodiversity enhancement. These can be added to the decision notice. Subject to this it is considered that the proposal would provide biodiversity net gain at the site and comply with relevant policies on ecology protection.

6.7 Water resource and pollution issues

6.7.1 Core Strategy policy CS18 seeks to reduce flood risk and avoid adverse impact on water quality and quantity. Policy CS6 requires that development safeguards natural

resources, including soil and water.

- 6.7.2 Surface and foul water drainage: The submitted Flood Risk and Drainage Strategy confirms that the site lies within Flood Zone 1 which denotes areas of lowest risk of flooding. Due to likely poor infiltration rates on the site and the layout being proposed, soakaways for surface water drainage have been discounted. Instead it is proposed that surface water flows would be attenuated to greenfield runoff rates, through the provision of an underground attenuation tank. The application proposes that foul water would be disposed of to mains sewer. This would be achieved by either connecting to an existing network / pumping station by the B4380 or to an existing connection point through agreement with Severn Trent Water.
- 6.7.3 The applicant has made enquiries to Severn Trent Water (STW) in relation to existing infrastructure and records. STW has confirmed that the property is not recorded as being at risk of internal flooding due to overloaded public sewers. As requested by the Council's Drainage team, a Surface Water Drainage Proforma for Major Developments has now been submitted. This, and the other submitted information, sets out the proposed indicative drainage layout and strategy. It is considered that specific details can be dealt with through a planning condition, to require that development does not commence on each phase until full details of surface and foul water drainage have been approved. This would require that sustainable water management systems are incorporated within the development.
- 6.7.4 Ground conditions: Ground Investigation reports have been submitted as part of the application, in relation to any potential soil contamination and presence of ground gas. The Council's Regulatory Services team have reviewed these. They have confirmed that the reports do not identify any significant risks to human health in relation to soil contamination. In relation to ground gas, the team have identified that a Mine Gas Risk Assessment will be required and have advised that this can be dealt with by planning condition. An additional assessment report has been submitted however this does not meet the requirements of the relevant guidance. A planning condition can be applied to the decision notice to ensure that risks are properly addressed through an appropriate assessment.
- 6.8 Affordable housing liability**
- 6.8.1 The proposed residential care home falls within Use Class C2 and the Council's adopted Type and Affordability of Housing SPD advises that such developments are not required to make a contribution to affordable housing.
- 7.0 Planning balance and conclusion**
- 7.1 The proposed development would provide a mixed-use development of retail, leisure, restaurant, café and residential care home within the development boundary of Shrewsbury. The care home would provide specialist housing for older people, the need for which national planning guidance states is 'critical', and the location for which is acceptable under Development Plan policy. The assessments undertaken as part of the planning application conclude that the proposed commercial element of the scheme meets the requirements of the sequential test in terms of its out of town centre

location, and that it would not have a significant adverse impact on the town centre. The proposal is located on land which was formerly used as a 'pitch and putt' site. This site closed in 2019 and has now been identified as surplus to requirements. Redevelopment of the site is therefore not in conflict with national planning policy.

- 7.2 The proposed development is compatible with surrounding land uses and officers do not have any significant concerns in relation to its design and layout. Whilst the development would necessitate the removal of a number of trees from the site it is considered that there would be sufficient retention of existing vegetation, and appropriate compensatory planting, to ensure a satisfactory visual appearance in this location. The landscaping proposal would also provide biodiversity enhancements. The amount and quality of open space for the care home is appropriate. Whilst there may be additional opportunities to improve the sustainability credentials of the proposed scheme, it is considered that the development is acceptable in relation to existing policy.
- 7.3 The access and egress arrangement are acceptable in principle following modifications to the proposal, and the residual concerns can be addressed through further design work which can be agreed as part of planning conditions. In addition opportunities to maximise sustainable modes of transport can be agreed as part of a Travel Plan for the commercial units.
- 7.4 The proposal would result in economic and social benefits in terms of employment creation, investment, housing provision, and commercial development. It is predicted that the care home would create between 70 and 80 jobs. It would also provide biodiversity enhancements, and would therefore contribute towards sustainable development objectives. In conclusion it is considered that the proposal is acceptable in relation to Development Plan policies and it is therefore recommended that planning permission is granted subject to the conditions set out in Appendix 1.

8. Risk Assessment and Opportunities Appraisal

Risk Management

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

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

way of Judicial Review must be a) promptly and b) in any event not later than six weeks after the grounds to make the claim first arose first arose.

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

Human Rights

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

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

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

Equalities

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

9. Financial Implications

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

10. Background

Relevant Planning Policies

Central Government Guidance:
National Planning Policy Framework

Core Strategy and Saved Policies:
CS1 - Strategic Approach
CS2 - Shrewsbury Development Strategy
CS6 - Sustainable Design and Development Principles
CS8 - Facilities, Services and Infrastructure Provision

CS11 - Type and Affordability of housing
 CS15 - Town and Rural Centres
 CS17 - Environmental Networks
 CS18 - Sustainable Water Management
 MD2 - Sustainable Design
 MD8 - Infrastructure Provision
 MD10B - Impact Assessments for Town and Rural Centres
 MD13 - Historic Environment

Relevant planning history

PREAPP/17/00548 Erection of Food Store with Car Parking, Access and Ancillary
 Development PREAMD 7th December 2017

PREAPP/19/00066 Mixed use development to include A1/A3/A4/A5/D2 with drive through
 facility in addition to proposed Residential Care Home C2 PREAMD 1st April 2019

11. Additional Information

View details online: <http://pa.shropshire.gov.uk/online-applications/applicationDetails.do?activeTab=summary&keyVal=RH471MTDIFV00>

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

Cabinet Member (Portfolio Holder) - Councillor Richard Marshall

Local Members

Cllr Ted Clarke
 Cllr Tony Parsons
 Cllr Rosemary Dartnall

Appendices

APPENDIX 1 - Conditions

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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 commence until a phasing plan has been submitted to and approved in writing by the local planning authority. The development shall be carried out in accordance with the approved plan.

Reason: To ensure a satisfactory phasing of development.

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

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

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

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

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

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

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

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

6. Prior to the above ground works commencing on each phase, samples and/or details of the roofing materials and the materials to be used in the construction of the external walls of all buildings on that phase 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 for each phase.

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

7. Prior to the commencement of development for each phase, full engineering details of the egress onto Hazledine Way and the Oteley Road slip road accesses and egress shall be submitted to and approved in writing by the Local Planning Authority. The development hereby permitted shall not be first brought into use or open to trading until the Hazledine egress has been constructed fully in accordance with the approved scheme.

Reason: To provide adequate means of access and egress from the site and in the interest of highway safety.

8. Prior to the commencement of development of each phase a Construction Method Statement, including details of construction traffic management and the phasing of road construction, shall be submitted to and approved in writing by the Local Planning Authority; the Construction Method Statement and phasing plan shall be implemented fully in accordance with the approved details.

Reason: To ensure the coordinated construction of the development and to mitigate the impact of the construction of the development site in the interests of highway and pedestrian safety.

9. No development within each phase shall take place (including demolition, ground works and vegetation clearance) until a Construction Environmental Management Plan for that phase

has been submitted to and approved in writing by the Local Planning Authority. The plan shall include:

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

All construction activities shall be implemented strictly in accordance with the approved plan for the relevant development phase.

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

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

- a) Planting plans, creation of wildlife habitats and features and ecological enhancements e.g. hibernacula, hedgehog-friendly gravel boards and amphibian-friendly gully pots, bat and bird boxes;
- b) Written specifications for establishment of planting and habitat creation;
- c) Schedules of plants/seed mixes, noting species (including scientific names), planting sizes and proposed numbers/densities where appropriate;
- d) Implementation timetables.

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

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

11. Prior to the commencement of each phase the development a suitably qualified tree specialist shall be appointed to undertake supervision and monitoring of the tree protection fencing and ground protection measures at pre-commencement stage and throughout the

construction period for that phase as outlined in the submitted arboricultural method statement and submit to the Local Planning Authority a satisfactory completion statement to demonstrate compliance with the approved tree protection measures in that phase.

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

12. a) No development shall take place on each phase until a scheme for the air ventilation and extraction system together with details of treatment and dispersal of fumes and odours for that phase has been submitted to and approved in writing by the Local Planning Authority.

b) The approved scheme shall be implemented in full prior to the use commencing on each phase and shall thereafter be maintained.

Reason: To protect the amenities of occupiers of adjacent land from potential smell nuisance. The information is required prior to the commencement of the development to ensure that any extraction equipment required is provided within the development from the commencement for the reasons give above.

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

13. Prior to each phase of the development hereby permitted being first brought into use/open to trading, the car parking areas and internal road layout infrastructure for that phase shall be surfaced and laid out fully in accordance with the approved drawings.

Reason: To ensure the coordinated delivery of the internal infrastructure to serve the development.

14. Prior to the first use of the retail, leisure and drive-through facilities details of proposed pedestrian and cycle paths at the site shall be submitted to and approved in writing by the local planning authority, and the approved details shall have been completed. The submitted details shall include full details of the design of paths into and out of the site, and circulation routes around the site.

Reason: To ensure satisfactory connectivity and safe routes to and from and within the site for pedestrians and cyclists.

15. Prior to the first use of each phase of the development hereby permitted details of the location, specification and appearance of all fencing and gates to be erected at the site shall be submitted to and approved in writing by the local planning authority. The fencing and gates shall be erected in accordance with the approved plans for each phase.

Reason: To control the appearance of the development in the interests of maintaining the visual character of the area.

16. All trees which are to be retained in accordance with the approved plan shall be protected in accordance with the submitted Tree Protection Plan drawing number Arbtech TPP 01 and Method Statement, and in accordance with BS 5837: 2012 "Trees in relation to Design, Demolition and Construction recommendations for tree protection". The protective fence and temporary ground protection shall be erected prior to commencing any approved development related activities on site, including ground levelling, site preparation or construction. The fence shall be maintained throughout the duration of the development and be moved or removed only

with the prior approval of the LPA.

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

17. Prior to the erection of any external lighting within each phase on the site, a lighting plan for that phase 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 Trusts Guidance Note 08/18 Bats and artificial lighting in the UK. The development shall be carried out strictly in accordance with the approved details for each phase and thereafter retained for the lifetime of the development.

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

18. Prior to first occupation / use of the building[s] within each phase, the makes, models and locations of bat and bird boxes for that phase 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 20 external woodcrete bat boxes or integrated bat bricks, suitable for nursery or summer roosting for small crevice dwelling bat species.

- A minimum of 20 artificial nests, of either integrated brick design or external box design, suitable for starlings (42mm hole, starling specific), sparrows (32mm hole, terrace design), swifts (swift bricks or boxes), house martins (house martin nesting cups), swallows (swallow nesting cups) and/or small birds (32mm hole, standard design). The boxes shall be sited in suitable locations, with a clear flight path where appropriate and where they will be unaffected by artificial lighting. The boxes shall thereafter be maintained for the lifetime of the development.

For swift boxes: Boxes should be positioned out of direct sunlight, at least 5m high, preferably under the eaves of a building and with a clear flight path to the entrance. North or east/west aspects are preferred. (See <https://www.swift-conservation.org/Leaflet%20-%20Swift%20Nest%20Bricks%20-%20installation%20&%20suppliers-small.pdf> for more details).

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

19. The approved care home development shall be operated in accordance with measures set out in the approved Travel Plan dated May 2022 and these measures shall remain in force for the lifetime of the development.

Reason: To promote sustainable travel to the site and in the interests of reducing car borne traffic.

20. Prior to the retail, leisure and drive-through facilities being first brought into use/open to trading, a Travel Plan shall be submitted to and approved in writing by the Local Planning Authority. The approved Travel Plan shall be implemented fully in accordance with the approved details and shall remain in force for the lifetime of the development.

Reason: To promote sustainable travel to the site and in the interests of reducing car borne traffic.

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

21. All services will be routed outside the root protection areas indicated on the Tree Protection Plan or, where this is not possible, a detailed 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 by protecting trees.

22. All works to the site shall occur strictly in accordance with the mitigation and enhancement measures regarding bats and birds as provided in Section 4.2 of the PEA and PRA (Arbtech, January 2022).

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

23. The building identified as 'care home' on the approved plan no. MBS-AHR-S1-XX-DR-A-08111 rev P06 shall be used only as a residential care home under Use Class C2 of the Town and Country Planning (Use Classes) Order 1987 (as amended), or in any provision equivalent to that Class in any statutory instrument revoking and re-enacting that Order with or without modification, and for no other purpose.

Reason: In order to restrict the use of the building in the interest of the amenities of the area.

24. The use of the ground floor of the building identified as 'retail building with gym above' on approved plan no. MBS-AHR-S1-XX-DR-A-08112 rev P05 shall be restricted to:

- (i) those within Use Class E of the Town and Country Planning (Use Classes) Order 1987 (as amended), or in any provision equivalent to that Class in any statutory instrument revoking and re-enacting that Order with or without modification, and for no other purpose, or
- (ii) a tanning and beauty salon.

Reason: In order to restrict the use of the premises to those appropriate for this location and in the interest of the amenities of the area.

25. The use of the first floor of the building identified as 'retail building with gym above' on approved plan no. MBS-AHR-S1-XX-DR-A-08112 rev P05 shall be restricted to those within Use Class E(d) of the Town and Country Planning (Use Classes) Order 1987 (as amended), or in any provision equivalent to that Class in any statutory instrument revoking and re-enacting that Order with or without modification, and for no other purpose.

Reason: In order to restrict the use of the premises to those appropriate for this location and in the interest of the amenities of the area.

26. The use of the buildings identified as 'KFC' and 'Starbucks' on approved plan no. MBS-AHR-S1-XX-DR-A-08112 rev P05 shall be restricted to:

- (i) those within Use Class E(b) of the Town and Country Planning (Use Classes) Order 1987 (as amended), or in any provision equivalent to that Class in any statutory instrument revoking and re-enacting that Order with or without modification, and for no other purpose, and/or
- (ii) drive-through food takeaway.

Reason: In order to restrict the use of the premises to those appropriate for this location and in the interest of the amenities of the area.

27. The premises identified as 'KFC' and 'Starbucks' on approved plan no. MBS-AHR-S1-XX-DR-A-08112 rev P05, and the units on the ground floor of the building identified as 'retail building with gym above' on approved plan no. MBS-AHR-S1-XX-DR-A-08112 rev P05 shall not be open for customers outside the following hours: -
0600 to 0100 Monday to Sunday.

No customers shall remain in the premises outside of the above times.

Reason: To protect the amenities of the area from potential nuisance.

Informatives

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

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

Failure to discharge pre-start conditions will result in a contravention of the terms of this permission; any commencement may be unlawful and the Local Planning Authority may consequently take enforcement action.

3. 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.

4. 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 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.

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Agenda Item 7

AGENDA ITEM



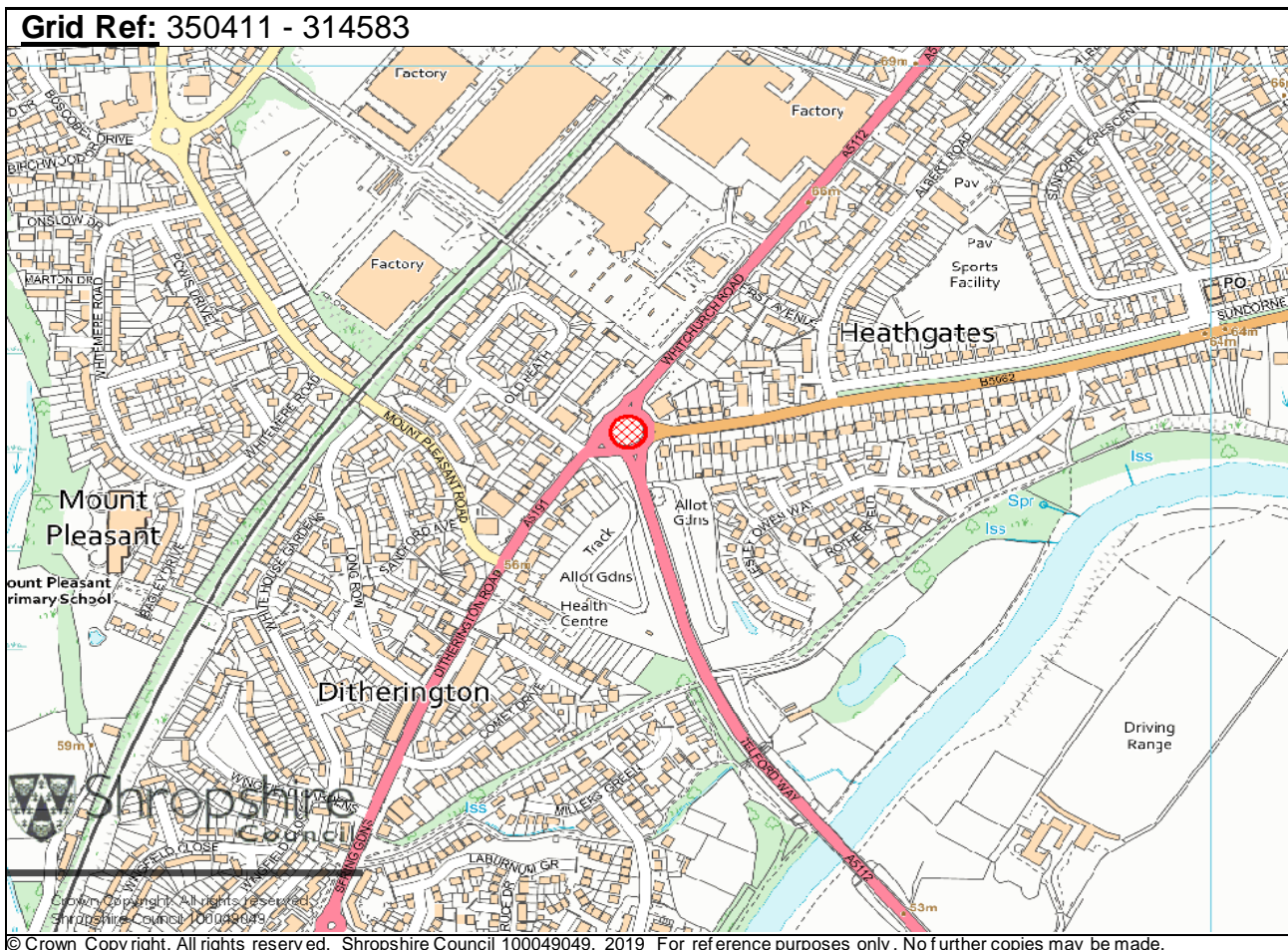
Committee and date
 North Planning Committee
 18th July 2023

Development Management Report

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

Summary of Application

Application Number: 23/00772/ADV	Parish:	Shrewsbury Town Council
Proposal: Erect and display three sponsorship signs placed on the roundabout		
Site Address: Roundabout Junction A5112 Whitchurch Road & Telford Way / A5191 Ditherington Road / B5062 Sundorne Road, Heathgates, Shrewsbury, Shropshire		
Applicant: CP Media on behalf of Shropshire Council		
Case Officer: Richard Denison	Email: richard.denison@shropshire.gov.uk	



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

REPORT

1.0 THE PROPOSAL

- 1.1 This is an advertisement application for the erection of three identical free standing sponsorship signs on behalf of Shropshire Council. The proposed signs will measure 800mm wide by 500mm tall and constructed from steel and aluminium with a powder coated finish with vinyl graphics applied. The sign will be attached onto two dark blue posts 300mm above ground level. The signs will be positioned on the roundabout facing traffic approaching from the three main A-roads. All sponsor plaques will be simple in design and the designs will be approved in writing by Shropshire Council. The minimum length of sponsorship is 12 months and the branding on the signs will remain constant during this period.

Amendments

- 1.2 An amended site plan has been received to reduce the number of signs on the roundabout from four to three. This alteration has been made to reduce the visual impact and cluttered appearance.

2.0 SITE LOCATION/DESCRIPTION

- 2.1 The roundabout is on the main arterial road (the A5112 from Battlefield) leading into the town centre of Shrewsbury. This roundabout includes the junctions of Sundorne Road and Telford Way. It is a relatively large roundabout measuring 33 metres in diameter and has a formal planting scheme consisting of several narrow rows of low shrub planting. Approximately a third of the roundabout is grass with low box hedging and includes five modest sized trees. The roundabout has had approval of three previous sponsorship signs.

3.0 REASON FOR COMMITTEE DETERMINATION OF APPLICATION

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

4.0 COMMUNITY REPRESENTATIONS

4.1 Consultee Comments

- 4.1.1 **Shropshire Council, Highways** - No objection is raised on highway safety grounds subject to a site inspection by highways officers prior to the installation and removal of any existing unauthorised signs.
- 4.1.2 **Shrewsbury Town Council** - The Town Council object to this application on the basis that the new signs proposed are considerably larger than the existing ones given that when Shrewsbury Town Council originally applied for planning permission in 2011, they were told that this was the original signs were largest they could be. There were also objections to the considerable increase in the number of signs at each site and the potential distraction this could create to drivers. Finally, concerns were raised about the combination of larger and an increased number of signs on the visual amenity of the roundabout given the conservation status of the town.

4.1.3 **Shrewsbury Civic Society** objects to this application. The proposed signs are quite large and there are too many of them. They will give a cluttered appearance to the road junction and are an unnecessary visual distraction.

4.2 **Public Comments**

4.2.1 No public representations have been received.

5.0 **THE MAIN ISSUES**

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

6.0 **OFFICER APPRAISAL**

6.1 **Background & Policy**

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

6.1.2 Advertisement consent was previously granted in July 2011 for Shrewsbury Town Council to erect and display 92 sponsorship signs at 34 locations throughout Shrewsbury (ref. 11/01825/ADV). The approved signs measured 600mm wide by 375mm tall and were constructed from a poly carbon board attached onto two dark posts 200mm above ground level. This application approved three signs on the roundabout subject to this current application.

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

6.1.4 This application has been subject to informal pre-application discussions between the sign company, the Council Business Development Manager, the Highways Manager, and the case officer.

6.2 **Impact on Public Safety**

6.2.1 Shrewsbury Town Council and the Shrewsbury Civic Society have raised concerns that the number signs on the roundabout have the potential to cause a distraction to drivers. This application will not increase the number of previously

approved signs which are positioned to be viewed from the main three approach roads which will be positioned straight in front of the driver as they approach the roundabout. Each of the signs will be identical and they will be viewed in isolation from one another at each of the roads entering the roundabout. The proposed signs will be set back from the edge of the roundabout and clear views are available of traffic on or entering the roundabout. The Council Highways Manager is satisfied that the proposed signs will not be a significant distraction to drivers and that there would be no highway safety implications which could otherwise affect road users. A safeguarding condition is proposed to remove any existing unauthorised signs.

6.3 Impact on Visual Amenity

6.3.1 Shrewsbury Town Council and Shrewsbury Civic Society have raised concerns that that due to the size and number of signs on the roundabout they will result in a cluttered appearance and impact on visual amenity given the conservation status of the town. This application has been amended to reduce the number of previously approved signs from four to three and the signs are small and low to the ground. The proposed signs are located on a roundabout which is within a built-up environment and will be visible to drivers as they approach the roundabout. The signs measure 800mm wide by 500mm tall (total sign area of 0.4 sqm) and are only 200mm wider and 125mm taller than previously approved and are spread out across a large, landscaped roundabout. There are existing street structures including road names, directional signs, chevron barriers, lampposts, etc in and around the proximity of the roundabout. Reference has been made to the conservation status of the town although the roundabout is not within or adjacent to a Conservation Area. Due to the modest size and low profile of the signs officers consider that they will not result in a significant visual impact on the street scene or character of the local area.

7.0 CONCLUSION

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

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

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

8.0 RISK ASSESSMENT AND OPPORTUNITIES APPRAISAL

8.1 Risk Management

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

- As with any planning decision the applicant has a right of appeal if they disagree with the decision and/or the imposition of conditions. Costs can be

awarded irrespective of the mechanism for hearing the appeal - written representations, a hearing or inquiry.

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

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

8.2 Human Rights

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

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

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

8.3 Equalities

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

9.0 FINANCIAL IMPLICATIONS

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

10.0 BACKGROUND

10.1 Relevant Planning Policies

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

National Planning Policy Framework (July 2021):

Shropshire Council Core Strategy (February 2011):

CS6 : Sustainable Design and Development Principles

Site Allocations and Management Development Plan (December 2016):

MD2 : Sustainable Design

10.2 Relevant Planning History

11/01825/ADV - Erect and display 92 Shrewsbury Town Council sponsorship signs at 34 locations. Granted 1st July 2011.

11.0 ADDITIONAL INFORMATION

List of Background Papers - Planning Application 23/00772/ADV

Cabinet Member (Portfolio Holder) - Cllr Chris Scofield

Local Member - Cllr Alan Mosley

Appendices

APPENDIX 1 - Conditions

APPENDIX 1 - Conditions

STANDARD CONDITION(S)

1. Any advertisement displayed, and any site used for the display of advertisements, shall be maintained in a condition that does not impair the visual amenity of the site.

Reason: To comply with the requirements of the Town and Country Planning (Control of Advertisements) (England) Regulations 2007.

2. Any structure or hoarding erected or used principally for the purpose of displaying advertisements shall be maintained in a condition that does not endanger the public.

Reason: To comply with the requirements of the Town and Country Planning (Control of Advertisements) (England) Regulations 2007.

3. Where an advertisement is required under these Regulations to be removed, the site shall be left in a condition that does not endanger the public or impair visual amenity.

Reason: To comply with the requirements of the Town and Country Planning (Control of Advertisements) (England) Regulations 2007.

4. No advertisement is to be displayed without the permission of the owner of the site or any other person with an interest in the site entitled to grant permission.

Reason: To comply with the requirements of the Town and Country Planning (Control of Advertisements) (England) Regulations 2007.

5. No advertisement shall be sited or displayed so as to:

(a) Endanger persons using any highway, railway, waterway, dock, harbour or aerodrome (civil or military);

(b) Obscure, or hinder the ready interpretation of, any traffic sign, railway signal or aid to navigation by water or air; or

(c) Hinder the operation of any device used for the purpose of security or surveillance or for measuring the speed of any vehicle.

Reason: To comply with the requirements of the Town and Country Planning (Control of Advertisements) (England) Regulations 2007.

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

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

CONDITION(S) THAT REQUIRE APPROVAL BEFORE THE DEVELOPMENT COMMENCES

7. Prior to the installation of the sponsorship signs a site inspection shall be undertaken with the Highways Authority to agree the layout of the signs in context with existing highway street furniture and landscaping. The agreed layout shall be approved in writing by the Local Planning Authority and the sponsorship signs installed in accordance with the agreement. Prior to the installation of the sponsorship signs any existing signs on the roundabout shall be permanently removed.

Reason: In the interest of highway safety and visual amenity.

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Committee and date

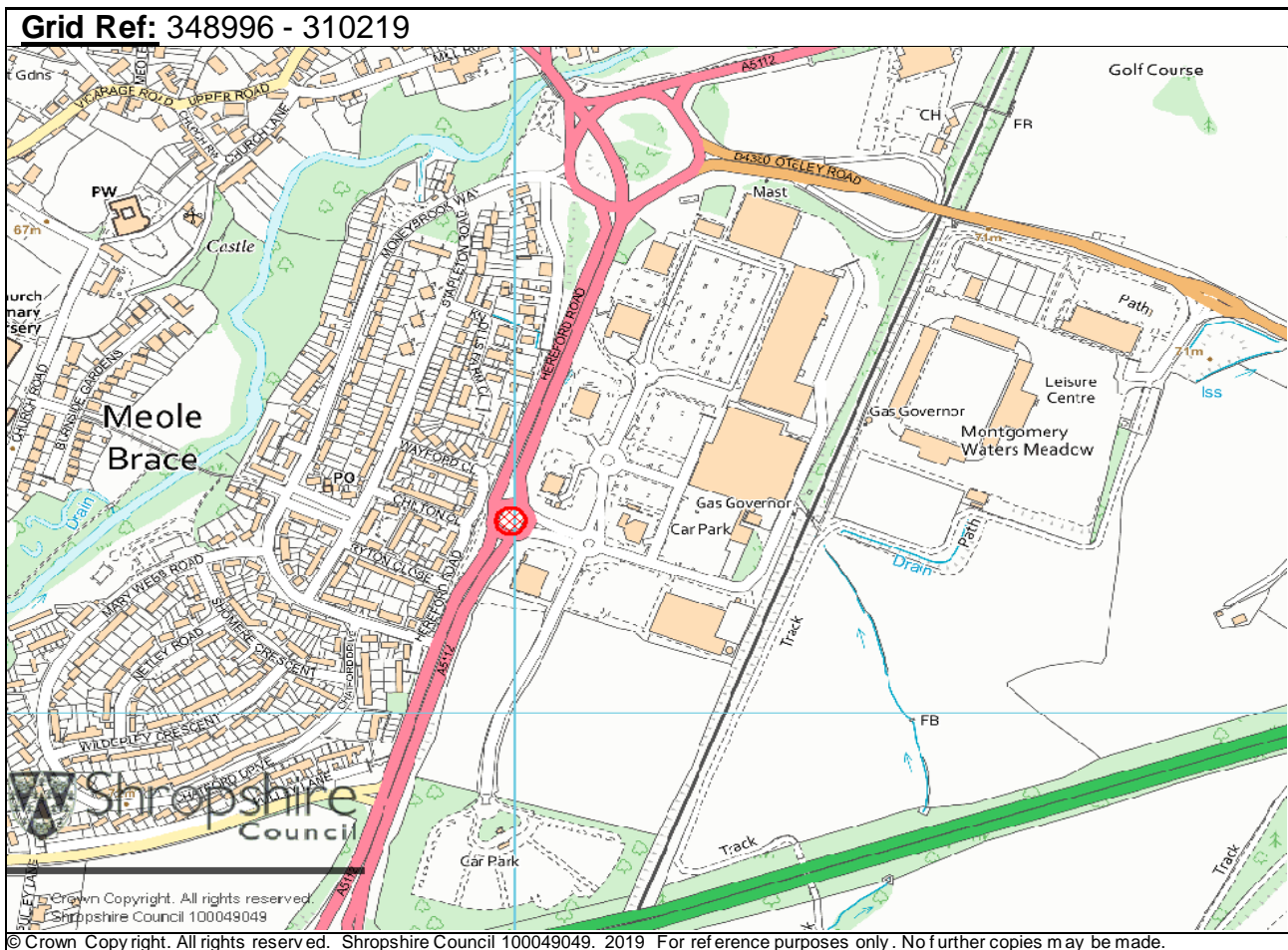
North Planning Committee
18th July 2023

Development Management Report

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

Summary of Application

Application Number: 23/00782/ADV	Parish:	Shrewsbury Town Council
Proposal: Erect and display three sponsorship signs placed on the roundabout		
Site Address: Roundabout Junction A5112 Hereford Road, Meole Brace, Shrewsbury, Shropshire		
Applicant: CP Media on behalf of Shropshire Council		
Case Officer: Richard Denison	Email: richard.denison@shropshire.gov.uk	



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

REPORT

1.0 THE PROPOSAL

- 1.1 This is an advertisement application for the erection of four identical free standing sponsorship signs on behalf of Shropshire Council. The proposed signs will measure 600mm wide by 375mm tall and constructed from steel and aluminium with a powder coated finish with vinyl graphics applied. The sign will be attached onto two dark blue posts 300mm above ground level. The signs will be positioned on the roundabout facing traffic approaching from each direction. All sponsor plaques will be simple in design and the designs will be approved in writing by Shropshire Council. The minimum length of sponsorship is 12 months and the branding on the signs will remain constant during this period.

Amendments

- 1.2 An amended specific plan has been received to reduce the width of the sign by 200mm and the height by 125mm to reduce the visual impact.

2.0 SITE LOCATION/DESCRIPTION

- 2.1 The roundabout is at the entrance into the Meole Brace Retail Park and for traffic heading from the A5 to the south towards the town. The roundabout is slightly raised with grass and tree planting towards the centre. Shrubs are located underneath and around the chevron signs, whilst the remainder of the roundabout is grass. This is a modest sized roundabout which is approximately 30 metres in diameter. The roundabout has previously been approved for three sponsor ship signs.

3.0 REASON FOR COMMITTEE DETERMINATION OF APPLICATION

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

4.0 COMMUNITY REPRESENTATIONS

4.1 Consultee Comments

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

- 4.1.2 **Shrewsbury Town Council** - The Town Council object to this application on the basis that the new signs proposed are considerably larger than the existing ones given that when Shrewsbury Town Council originally applied for planning permission in 2011, they were told that this was the original signs were largest they could be. There were also objections to the considerable increase in the number of signs at each site and the potential distraction this could create to drivers. Finally, concerns were raised about the combination of larger and an increased number of signs on the visual amenity of the roundabout given the conservation status of the town.

4.1.3 **Shrewsbury Civic Society** objects to this application. The proposed signs are quite large and there are too many of them. They will give a cluttered appearance to the road junction and are an unnecessary visual distraction.

4.2 **Public Comments**

4.2.1 No public representations have been received.

5.0 **THE MAIN ISSUES**

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

6.0 **OFFICER APPRAISAL**

6.1 **Background & Policy**

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

6.1.2 Advertisement consent was previously granted in July 2011 for Shrewsbury Town Council to erect and display 92 sponsorship signs at 34 locations throughout Shrewsbury (ref. 11/01825/ADV). The approved signs measured 600mm wide by 375mm tall and were constructed from a poly carbon board attached onto two dark posts 200mm above ground level. This application approved three signs on the roundabout subject to this current application.

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

6.1.4 This application has been subject to informal pre-application discussions between the sign company, the Council Business Development Manager, the Highways Manager, and the case officer.

6.2 **Impact on Public Safety**

6.2.1 Shrewsbury Town Council and the Shrewsbury Civic Society have raised concerns that the number signs on the roundabout have the potential to cause a distraction to drivers. Officers acknowledge that this application will increase the number of previously approved signs from three to four, although the signs are

positioned to be viewed straight in front of the driver as they approach the roundabout. Each of the signs will be identical and they will be viewed in isolation from one another at each of the roads entering the roundabout. The proposed signs will be set back from the edge of the roundabout and clear views are available of traffic on or entering the roundabout. The Council Highways Manager is satisfied that the proposed signs will not be a significant distraction to drivers and that there would be no highway safety implications which could otherwise affect road users. A safeguarding condition is proposed to remove any existing unauthorised signs.

6.3 Impact on Visual Amenity

6.3.1 Shrewsbury Town Council and Shrewsbury Civic Society have raised concerns that that due to the size and number of signs on the roundabout they will result in a cluttered appearance and impact on visual amenity given the conservation status of the town. However, this application will not increase the number of previously approved signs and amended plans have been received to reduce the size of the signs from the originally submitted 800mm wide by 500mm tall to 600mm wide by 375mm tall which was previously approved. This application will now regularise the existing signage on the roundabout which are small and low to the ground. Reference has been made to the conservation status of the town although the roundabout is not within or adjacent to a Conservation Area. Due to the modest size and low profile of the signs officers consider that they will not result in a significant visual impact on the street scene or character of the local area.

7.0 CONCLUSION

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

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

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

8.0 RISK ASSESSMENT AND OPPORTUNITIES APPRAISAL

8.1 Risk Management

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

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

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

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

8.2 **Human Rights**

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

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

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

8.3 **Equalities**

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

9.0 **FINANCIAL IMPLICATIONS**

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

10.0 **BACKGROUND**

10.1 **Relevant Planning Policies**

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

National Planning Policy Framework (July 2021):

Shropshire Council Core Strategy (February 2011):

CS6 : Sustainable Design and Development Principles

Site Allocations and Management Development Plan (December 2016):

MD2 : Sustainable Design

10.2 Relevant Planning History

11/01825/ADV - Erect and display 92 Shrewsbury Town Council sponsorship signs at 34 locations. Granted 1st July 2011.

11.0 ADDITIONAL INFORMATION

List of Background Papers - Planning Application 23/00782/ADV

Cabinet Member (Portfolio Holder) - Cllr Chris Scofield

Local Member - Cllr Tony Parsons & Cllr Rosemary Dartnall

Appendices

APPENDIX 1 - Conditions

APPENDIX 1 - Conditions

STANDARD CONDITION(S)

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

CONDITION(S) THAT REQUIRE APPROVAL BEFORE THE DEVELOPMENT COMMENCES

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

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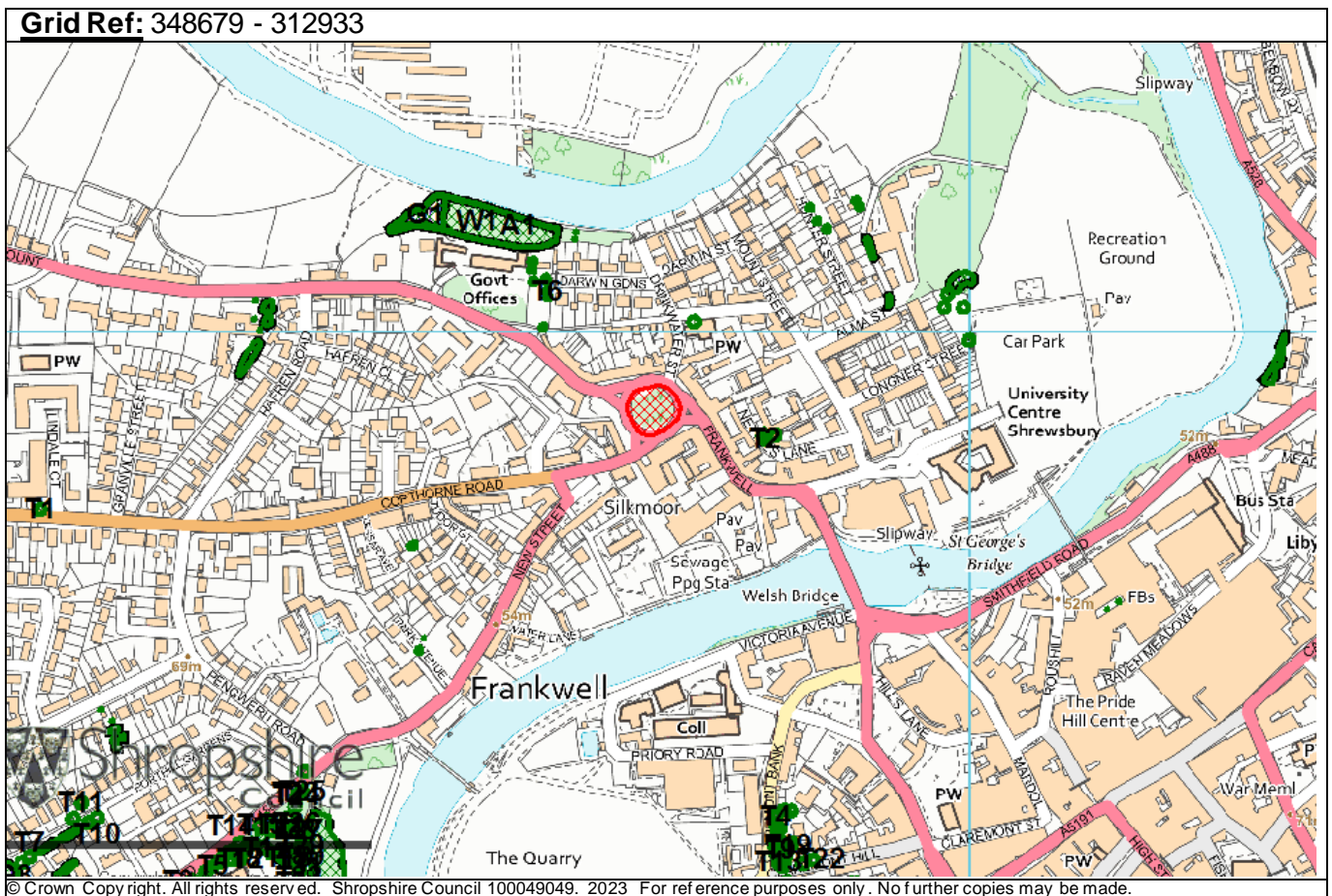
Committee and date
North
28 July 2023

Development Management Report

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

Summary of Application

Application Number: 23/02352/ADV	Parish:	Shrewsbury Town Council
Proposal: Erect and display four sponsorship signs placed on the roundabout		
Site Address: A458 The Mount/Frankwell/Copthorne Road Roundabout Shrewsbury Shropshire		
Applicant: CP Media		
Case Officer: Jane Raymond	email: jane.raymond@shropshire.gov.uk	



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

REPORT

1.0 THE PROPOSAL

- 1.1 This is an application for advertisement consent to erect and display three identical free standing sponsorship signs on behalf of Shropshire Council at Frankwell roundabout.
- 1.2 The proposed signs will measure 800mm wide by 500mm tall and will be constructed from steel and aluminium with a powder coated finish with vinyl graphics applied. The signs will be positioned 300mm above ground level attached to two 800mm high dark blue posts.
- 1.3 All of the signs will be simple in design, with the detailed design to be approved in writing by Shropshire Council. The minimum length of sponsorship is 12 months and the branding on the signs will remain constant during this period.
- 1.4 An amended site plan has been received to reduce the number of signs from the four initially applied for, to three. This alteration has been made to reduce the visual impact and cluttered appearance.

2.0 SITE LOCATION/DESCRIPTION

- 2.1 Frankwell roundabout is a relatively large roundabout situated on the edge of Shrewsbury Town Centre and within the Frankwell and New Street Special Character Area of Shrewsbury Conservation area. It measures approximately 45 metres in diameter and there are several large shrubs and trees within the centre of the roundabout.
- 2.2 The signs will be positioned on the roundabout facing traffic approaching from the three main roads that join the roundabout (Frankwell, Copthorne Road and The Mount) and in the same location as the 3 sponsorship signs previously approved and in place on this roundabout.

3.0 REASON FOR COMMITTEE DETERMINATION OF APPLICATION

- 3.1 The proposal does not comply with the scheme of delegation as set out in Part 8 on the Shropshire Council Constitution as the application is in relation to land owned by Shropshire Council for a proposal that is not in line with a statutory function.

4.0 Community Representations

4.1 Consultee Comment

- 4.1.1 **SC Archaeology:** *Officers have no comments to make on this application with respect to archaeological matters.*
- 4.1.2 **SC Conservation:** *This roundabout site is within the Shrewsbury Conservation*

Area and more specifically within the Frankwell and New Street Special Character Area. Having looked at the details we have no further comments on this signage application.

- 4.1.3 **SC Highways:** *Shropshire Council as Highway Authority raises no objection to the granting of consent of the above mentioned planning application. It is recommended that the applicant contacts Shropshire Councils Streetworks team to ensure that the necessary permission to work on the highway is sought. It is also recommended that the following condition is placed upon any permission granted:*

4.2 Public Comments

- 4.2.1 **Shrewsbury Town Council:** *The Town Council object to this application on the basis that the new signs proposed are considerably larger than the existing ones and there appears to be a large amount of traffic islands around the town proposed for signage. There were also objections on the potential distraction this could create to drivers and cyclists. Finally, concerns were raised about the combination of larger and an increased number of signs on the visual amenity of the roundabout given the conservation status of the town.*

5.0 THE MAIN ISSUES

Background and Policy
Impact on Public Safety
Impact on Visual Amenity

6.0 OFFICER APPRAISAL

6.1 Background and Policy

- 6.1.1 Local authority roundabout sponsorship or advertising schemes are now very common throughout the UK, and Shropshire Council would like to offer local businesses the opportunity to advertise. Roundabout sponsorship is typically used by small to medium sized local business to raise their profile. It serves as a cost-effective way for them to promote themselves in high visibility locations for considerably less money than would otherwise be possible - helping boost the local economy. The income generated from advertising on Highway's assets will be reinvested in the Highways network.
- 6.1.2 Advertisement consent was previously granted in July 2011 for Shrewsbury Town Council to erect and display 92 sponsorship signs at 34 locations throughout Shrewsbury (ref. 11/01825/ADV). The approved signs measured 600mm wide by 375mm tall and were constructed from a poly carbon board attached onto two dark posts 200mm above ground level. This advert consent approved three signs on the roundabout the subject of this current application.
- 6.1.3 The National Planning Policy Framework provides guidance on the display of advertisements, in particular paragraph 67 which states "*The quality and character of places can suffer when advertisements are poorly sited and designed. A separate consent process within the planning system controls the display of advertisements, which should be operated in a way which is simple, efficient and*

effective. Advertisements should be subject to control only in the interests of amenity and public safety, taking account of cumulative impacts". This is reflected in policy CS6 of Shropshire's Core Strategy and policy MD2 of the Site Allocations and Management of Development (SAMDev) Plan.

6.2 Impact on Public Safety

- 6.2.1 Shrewsbury Town Council has raised concern that the number signs and the increased size compared to the existing have potential to cause a distraction to drivers and cyclists. The application when first submitted was for 4 signs but following a request to reduce the size and number of the signs the applicant has agreed to reduce the number of signs to 3 but has not reduced the size.
- 6.2.2 The number of signs is now the same as previously approved for this roundabout and are proposed to be in the same location and positioned to be viewed from the three main three approach roads (Frankwell, Copthorn Road and The Mount). The Council Highways Manager has no objection on Highway safety grounds to the proposed larger signs subject to the imposition of a condition requiring the exact location, prior to installation, to be agreed with the Highway Authority and requiring the existing signs to be removed.

6.3 Impact on Visual Amenity

- 6.3.1 Shrewsbury Town Council has raised concerns regarding the impact on visual amenity due to the increased number of signs in combination with the larger size. As referred to at 6.2.1 the applicant has reduced the number of signs from 4 to 3 (the same number as existing) but has not reduced the size of the signs.
- 6.3.2 The Frankwell roundabout is one of the larger roundabouts in Shrewsbury (approximately 45 metres in diameter). Due to its size and the distance between the proposed signs they will not be viewable at the same time from most locations around the roundabout (both by pedestrians and drivers). This will help reduce any cumulative impact and also ensure that the proposal does not result in a cluttered appearance.
- 6.3.3 The applicant is unwilling to reduce the size of the signs which will be 800mm wide by 500mm tall on 800mm high posts compared to the existing signs which are 600mm wide by 375mm tall on 575mm high posts. The Frankwell roundabout is a much larger roundabout than some of the other locations proposed for these larger signs. Combined with the scale of the landscaping (large shrubs and trees rather than neatly mown grass and maintained smaller scale flower beds) it is considered that the proposed larger size will be better assimilated at this location and would not result in a significant adverse visual impact on the street scene or the character appearance of the local area.

7.0 CONCLUSION

- 7.1 It is considered that the proposed signs will have no adverse impact on public safety and would have no significant adverse impact on the character and appearance of the site or the visual amenity of the locality and would have no significant impact on the character and appearance of the wider Conservation area.

7.2 It is recommended that the application is approved subject to the recommended conditions within appendix A.

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:
CS6 and MD2

RELEVANT PLANNING HISTORY:

11/01825/ADV - Erect and display 92 Shrewsbury Town Council sponsorship signs at 34 locations. Granted 1st July 2011.

11. Additional Information

List of Background Papers

23/02352/ADV - 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=RVJBTYTDHEM00>

Cabinet Member (Portfolio Holder): Councillor Chris Scofield

Local Member: Cllr Julian Dean

Appendices

APPENDIX 1 – Conditions

APPENDIX 1

Conditions

STANDARD CONDITION(S)

1. Any advertisement displayed, and any site used for the display of advertisements, shall be maintained in a condition that does not impair the visual amenity of the site.

Reason: To comply with the requirements of the Town and Country Planning (Control of Advertisements) (England) Regulations 2007.

2. Any structure or hoarding erected or used principally for the purpose of displaying advertisements shall be maintained in a condition that does not endanger the public.

Reason: To comply with the requirements of the Town and Country Planning (Control of Advertisements) (England) Regulations 2007.

3. Where an advertisement is required under these Regulations to be removed, the site shall be left in a condition that does not endanger the public or impair visual amenity.

Reason: To comply with the requirements of the Town and Country Planning (Control of Advertisements) (England) Regulations 2007.

4. No advertisement is to be displayed without the permission of the owner of the site or any other person with an interest in the site entitled to grant permission.

Reason: To comply with the requirements of the Town and Country Planning (Control of Advertisements) (England) Regulations 2007.

5. No advertisement shall be sited or displayed so as to:

(a) Endanger persons using any highway, railway, waterway, dock, harbour or aerodrome (civil or military);

(b) Obscure, or hinder the ready interpretation of, any traffic sign, railway signal or aid to navigation by water or air; or

(c) Hinder the operation of any device used for the purpose of security or surveillance or for measuring the speed of any vehicle.

Reason: To comply with the requirements of the Town and Country Planning (Control of Advertisements) (England) Regulations 2007.

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

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

CONDITION(S) THAT REQUIRE APPROVAL BEFORE THE DEVELOPMENT COMMENCES

7. Prior to the installation of the sponsorship signs a site inspection shall be undertaken with the Highways Authority to agree the layout of the signs in context with existing highway street furniture and landscaping. The agreed layout shall be approved in writing by the Local Planning Authority and the sponsorship signs installed in accordance with the agreement. Prior to the installation of the sponsorship signs any existing signs on the roundabout shall be permanently removed.

Reason: In the interest of highway safety and visual amenity.

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AGENDA ITEM



Committee and date
North
28 July 2023

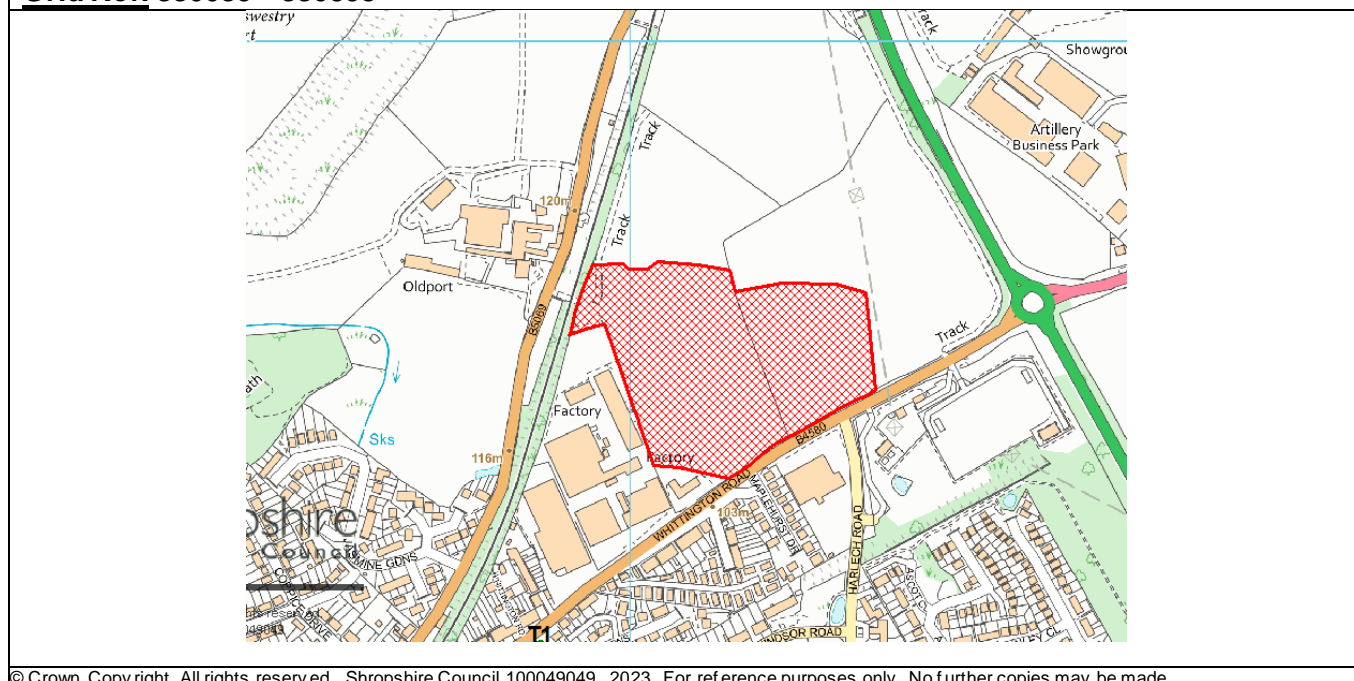
Development Management Report

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

Summary of Application

Application Number: 23/00225/FUL	Parish:	Oswestry Town
Proposal: Proposed residential development of 83 dwellings with associated access, public open space, electricity sub-station, drainage and landscaping (re-submission)		
Site Address: Land North of Whittington Road Oswestry		
Applicant: Cameron Homes		
Case Officer: Philip Mullineux	email: philip.mullineux@shropshire.gov.uk	

Grid Ref: 330039 - 330695



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Recommendation: Approval subject to the conditions as outlined in appendix one and any amendments to these conditions as considered necessary by the Service Manager and the signing of a Section 106 agreement in order to ensure affordable housing and open space provision in accordance with the detail as set out in the report.

REPORT

1.0 THE PROPOSAL

- 1.1 The application is made in 'full' and proposes residential development of 83 dwellings with associated access, public open space, electricity sub-station, drainage and landscaping (re-submission) on land north of Whittington Road, Oswestry.
- 1.2 The application is accompanied by a site location plan , block plan, elevations and floor plans, design and access statement, planning statement, landscaping details, landscape master plan, phasing plan, boundaries treatment plan, materials plan, drainage detail, flood risk assessment, biodiversity report and survey, tree reports, affordable housing statement, transport assessment, travel plan, construction management report, site investigation report, archaeological report, landscape and visual impact assessment, arboriculture impact assessment, odour report refuse tracking plan, and a noise impact assessment. During the application processing further clarification was received in relation to noise and drainage issues and affordable housing layout and size in relation to expected occupancy rates.

- 1.3 The planning history of the site in relation to residential development is as follows:

PREAPP/09/70108 Proposed development of land for employment purposes 5th May 2009

18/02760/SCR Residential Development **EIA** 6th August 2018

19/02685/EIA Proposed residential development of 52No dwellings with associated access, public open space, electricity sub-station, drainage and landscaping **Withdrawn** - 9th March 2020

19/02686/EIA Residential development of 48 dwellings with associated access, public open space and landscaping (revised description) **Withdrawn** 9th March 2020

20/01033/EIA Proposed residential development of 83No. dwellings with associated access, public open space, electricity sub-station, drainage and landscaping. **Refused** 28th March 2022

22/04686/SCR Proposed residential development of 83No. dwellings with associated access, public open space, electricity sub-station, drainage and landscaping. Environmental statement not required 14th November 2022

23/00225/FUL Proposed residential development of 83 dwellings with associated access, public open space, electricity sub-station, drainage and landscaping (re-submission) - Application under consideration.

1.4 This application seeks planning permission for the same development as a previous application (20/01033/EIA refused on March 28th 2022) – i.e. for 83 dwellings, and addresses the five reasons for refusal as outlined below by providing the necessary information

1. It is considered that insufficient information accompanies the application in relation to ecological impacts as this application requires an updated Ecological Appraisal and must include reference to specific assessments for Great Crested Newts and Badgers. In the absence of this additional information the application is refused since it is not possible to conclude that the proposal will not cause an offence under the 2019 Conservation of Habitats and Species (Amendment) (EU Exit) Regulations and therefore considered contrary to Policies CS6 and CS17 of the Shropshire Core Strategy, Policies MD2 and MD13 of the SAMDev and the National Planning Policy Framework in relation to ecological issues.

2. It is considered that insufficient information accompanies the application in relation to noise and odour impacts and the implications for land uses. As such it is considered that more robust noise and odour assessments and appropriate mitigation schemes are required in order to give these issues adequate planning consideration. This must detail which facades and external areas will exceed the good noise standards as defined in BS8233 (currently considered to be 35dBA LAeq in habitable rooms in the day, 30dB LAeq in bedrooms at night, 45dB LAmax in bedrooms at night and 50dB LAeq in external amenity areas) and specify the mitigation which are proposed. There are also concerns with regards to potential noise impacts and location of the proposed affordable housing. As such the application is considered contrary to Policy CS6 of the Shropshire Core Strategy, Policy MD2 of the SAMDev and the National Planning Policy Framework on this matter. On odour issues it is considered that the odour assessment in support of the application established there will be an adverse impact and it not concluded that landscaping as proposed will be effective in adequately addressing the odour issues.

3. It is considered that insufficient information accompanies the application in relation to potential impacts on the surrounding strategic public highway network. Despite the applicants having been in consultation with National Highways, (Highways England), over a considerable period of time, as set out in the latest National Highways response dated 9th February 2022, no satisfactory response has been brought forward. As such the application is considered contrary to Policies CS6 and CS8 of the Shropshire Core Strategy and Policy MD2 of the

SAMDev and the National Planning Policy Framework in relation to public highway infrastructure.

4. It is considered that insufficient information accompanies the application in relation to drainage issues and impacts. It is considered that the proposed site layout requires a revised drainage layout plan and associated calculations. As such the application is considered contrary to Policies CS6 and CS18 of the Shropshire Core Strategy, Policy MD2 of the SAMDev and the National Planning Policy Framework in relation to drainage issues.

5. The application is a full application yet the details submitted as set out in the Planning Statement, Design and Access Statement and amended plans in support of the application do not correspond with one another. Furthermore no Section 106 Agreement/Heads of Terms accompanied the application in order to satisfy legal issues in relation to provision of affordable housing on site, provision and management of open space and financial contributions as considered necessary. As such the application is considered contrary to Policies CS6, CS9 and CS11 of the Shropshire Core Strategy, Policies MD2 and MD8 of the SAMDev and the National Planning Policy Framework on this matter.

2.0 SITE LOCATION/DESCRIPTION

- 2.1 The site consists of grade 3 agricultural land and covers an area of approx. 4.54 hectares, (application form), and is allocated in accordance with the Council's Site Allocations and Management of Development (SAMDev) Plan for around 117 dwellings. This Plan was adopted in December 2015 after being found 'sound' by an independent planning Inspector and as such is afforded full weight in the planning consideration process
- 2.2 The site is bounded on its south side by the B4580 public highway known as Whittington Road, along the western side by a number of industrial buildings, alongside the north-west side by the Cambrian railway line and to the north and east by agricultural land. Opposite the site, on the other side of the public highway known as Whittington Road, is a residential street and a car dealership.
- 2.3 Approx 100 metres east of the site is located Oswestry's electricity substation with its connection to the National Grid and array of transformers. High voltage electricity pylons extend north of the substation across land to the immediate east of the application site
- 2.4 Below ground, a high-pressure underground pipeline carrying water from Lake Vyrnwy to Liverpool, this runs through the southern part of the site, approximately parallel to Whittington Road. This aqueduct has a sizeable easement which the applicants acknowledge cannot be built upon. Also acknowledged by the applicants are the siting of sluice drains and a rainwater main drain that constrains the developable area on part of the site.

- 2.5 Further east is the A5 trunk road with the Artillery Business Park and Oswestry Showground beyond. To the north lies agricultural land with the buildings and incinerator tower of Gobowen Orthopaedic Hospital visible 1.5km in the distance. To the north-west on the other side of a public highway known as Gobowen Road is located the site of 'Old Oswestry hill fort', this was a fortified housing site in the Iron Age approximately 800BC to 43AD, and there are substantial views from the Hill Fort site over the surrounding area which includes the application site. This landmark is a 'scheduled ancient monument'.



- 2.6 The Application site is outlined in red on the above aerial photograph indicating its location adjacent to the built form of Oswestry, with the Hill Fort site located to the northwest beyond Oldport Farm.
- 2.7 The application proposes construction of a mixture of traditional two-storey houses, (a mixture of detached, semi-detached and terraced properties), consisting of 83 dwellings which represents a density of 34 dwellings per hectare across the site, to be constructed in one single phase and the breakdown of the proposed dwellings in accordance with the amended detail is as follows:
02 - 1 bedroomed.(affordable units)
27 – 2 bedroomed (includes 4 single storey dwellings),
35 - 3 bedroomed (includes 2 affordable units).

19 – 4 bedroomed

83 - Total. (Representing a density of 34 dwellings per hectare).
(08 - affordable houses, representing 10%).

- 2.8 A screening opinion dated 11th November 2022 reference number 22/04686/SCR concluded that *'the area of the development does not exceed any of the indicative criteria's as set out in the regulations (Schedule 2 – 10(b) for determining significance and whether or not there is a need for EIA, and as such it is concluded that an Environmental Statement is not required in support of any formal application for the development as indicated.*

However, in order to ensure adequate and thorough consideration to the historic and cultural environment along with landscape, visual impacts, surface and foul water drainage, ecological impacts and highway matters, arising as a result of the proposal detail will be required as outlined in the appendix below.

Please also be aware the above list is not exhaustive and covers the key issues of concern in relation to the proposal.

Should any details of the proposed development change, or if new information comes to light as part of the application process, then further detail may be considered necessary, if the development is judged to raise further significant environmental impacts. Any additional alterations will need to be assessed by the Local Planning Authority to consider whether this screening opinion remains valid for the amended development. In accordance with Part 2 of the EIA Regulation 2017 5(6) any person has the right to seek a screening opinion from the Secretary of State should they disagree with this the Council's screening opinion.

Appendix.

Notwithstanding the above any formal application for development on site will need to be carried out in accordance with SAMDev Policy S14.1a and accompanied by a detailed

Report on cultural heritage and supported by a Heritage Impact Assessment, updated to reflect the changes to national planning policy and any design changes for the development that have occurred since the submission of the last formal application, and the results of an archaeological field evaluation.

Any formal application will also need to be accompanied by a Landscape and Visual Impact Assessment which will need to reference the historic and cultural heritage of the site and its setting.

As the site exceeds 1 hectare in area, a flood risk assessment will also be required.

It is not considered that development (as outlined) would give rise to significant environmental effects on biodiversity so as to screen it in as EIA development. There are no international or national designated sites located nearby, so it is not to be located in an area of high biodiversity sensitivity. However, an Ecological Impact Assessment of the land in and surrounding the proposed development and a discussion of any potential impacts resulting from the development. An Ecological Impact Assessment should consist of:

- An Extended Phase 1 habitat survey, habitat map and target notes on any significant biodiversity or geological features.*
- A desk study of historical species records and local, regional or national wildlife designated sites.*
- Supplementary detailed surveys (phase 2 habitat surveys, protected or priority species or geological features as appropriate to the site).*
- Evaluation of the importance of biodiversity or geological features present at a local, regional, national, international level.*
- Analysis of the direct and indirect impacts of the development (during construction, working area, additional infrastructure and post construction).*
- Proposed avoidance, mitigation or compensation measures, including method statements where appropriate.*
- Legal implications such as the need for European Protected Species Mitigation Licences or other licences (e.g. badgers).*
- Proposed biodiversity or geodiversity enhancement measures, ensuring no net loss of biodiversity.*

The Ecological Impact Assessment should be carried out by a suitably qualified and experienced ecologist.

Bats

Should development proposals involve development close to, or felling or lopping of trees then these should be assessed in line with the Bat Conservation Trusts Good Practice Guidelines (3rd edition, 2016) with any follow up surveys to assess the presence/likely absence of bat roosts undertaken. Bat activity surveys should also be carried out, in line with the Good Practice Guidelines, particularly focussing effort on any hedgerows, tree or scrub lines or other suitable habitat to be lost. Mitigation should be designed in line with the Natural England Bat Mitigation Guidelines. Any deviation from the methods, level or timing of surveys set out in the Good Practice Guidelines should be accompanied by a reasoned evidence statement from the licensed ecologist carrying out the survey clarifying how the sub-optimal survey is ecologically valid.

Badgers

This site and its surroundings contain habitat suitable to support badgers. An inspection of all suitable habitat on site and to a distance of at least 30m from the site boundaries should be carried out. Where badgers are confirmed to be

present, a mitigation strategy and precautionary method statement should be provided in support of the planning application.

Habitats

Existing priority habitats such as hedgerows and ponds should be incorporated into any scheme, with opportunities proposed to enhance their value for wildlife Enhancement. Enhancements should be proposed through the scheme, and these may include additional hedge and tree planting and areas of species-rich semi-natural habitat such as hay meadows, wetlands etc.

Sustainable long-term management of the green Infrastructure and ecological habitats.

Consideration should be given to how the long-term management of the Green Infrastructure for the site will be secured and implemented. The assessment should detail the mechanisms by which the favourable conservation status of populations of GCNs, bats and other protected and important species will be maintained in the long term and secured through s106 or other agreements at the planning application stage.

Biodiversity Impacts

SC Ecology now require Biodiversity Net Gain calculations for all major developments. This must demonstrate an increase in habitat value compared to the pre-development baseline.

In accordance with policies MD12, CS17 and the NPPF, the development must demonstrate how it protects and enhances biodiversity. This should include the provision of information on measurable habitat losses and gains pre and post development (eg through using DEFRA Biodiversity Metric 3.1) and may take into account any other biodiversity enhancement measures (such as for species) to be incorporated into the development. The above list of required ecological information is not exhaustive and would be informed by the results of an Extended Phase 1 habitat survey and desk study.

Also required will be a transport assessment with regards to impacts on adjacent public highways and vehicle movements.'

3.0 REASON FOR COMMITTEE DETERMINATION OF APPLICATION

- 3.1 The Town Council has submitted a contrary view to officers based on material reasons and it is agreed by the Planning Manager in consultation with the chairman and vice-chairman that this application should be determined by committee in accordance with the Council's constitution.

4.0 Community Representations

- 4.1 **Oswestry Town Council** has responded indicating:

Members agreed that the proposed development was isolated, lacked facilities for residential housing and had not taken into account access along the railway line. It was also agreed that the excessive traffic and speed issues were a major safety concern.

It was therefore resolved to object to the Planning Application and recommend refusal based on the following reasons:

The principal objection is that the proposed development is inappropriate in this setting and context due to its close proximity to Old Oswestry Hillfort. The Council have previously objected to the inclusion of Osw004 in the Local Plan. In addition:

- Connectivity to the town is poor, the development would be isolated from the town centre and, fundamentally in the wrong place. The development will not be served by public transport with active transport options being extremely limited;*
- A disproportionately high number of future homes are due to be delivered in the north of the town with specific impacts on the road network around Whittington Road. Existing problems will be exacerbated significantly, creating highway safety risks and both noise and air pollution. No associated works to improve Whittington Road and Gobowen Road junction are included in the proposal;*
- No consideration given to the wider impact on already stretched community services such as schools and GP services;*
- The Town Council are supportive of the restoration of rail links between the town and Gobowen along this line, the potential impact of this on the development needs to be considered. The application does not address the requirement to provide a crossing over the railway line.*

4.2 Consultee Comment

4.3 National Highways have responded to the application indicating:

National Highways has been appointed by the Secretary of State for Transport as a strategic highway company under the provisions of the Infrastructure Act 2015 and is the highway authority, traffic authority and street authority for the Strategic Road Network (SRN). The SRN is a critical national asset and as such we work to ensure that it operates and is managed in the public interest, both in respect of current activities and needs as well as in providing effective stewardship of its long-term operation and integrity.

This response represents our formal recommendation regarding the planning application 23/00225/FUL and has been prepared by Neil Hansen.

The closest point of impact from the proposed development on the SRN in the area is the A5 Whittington Road roundabout, located circa 200m east of the development site.

The vehicular access to the development is proposed from Whittington Road via a new ghost island priority junction.

The development site has planning history for application references 19/02685/EIA and 19/02686/EIA which were later withdrawn by the applicant in March 2020.

Following this, a revised planning application 20/01033/EIA for a development of 91 dwellings was submitted. This application was refused by Shropshire Council on non-highway grounds with a decision notice issued in March 2022. The applicant has now re-submitted the current planning application for 83 dwellings. National Highways consider that the distance of the access of the proposed development from the SRN is such that it will have no adverse traffic impact on any potential improvement scheme at the A5 Whittington Road roundabout. In view of the above National Highways offer no objection

4.4 **Historic England** have responded indicating:

The application is a revision of an earlier application (20/01033/EIA) that was refused on 28th March 2022. In the interim the Local Planning Authority has issued a Screening Decision (11th November 2022) determining that an Environmental Statement is not required. The application is for 83 houses and includes minor layout changes including the replacement of six two-storey dwellings with single-storey dwellings. This response can be read alongside our consultation replies of 16th February 2022 and 16th April 2020. (Officer's comment – The responses from Historic England to the previous application indicated in NPPF terms that the impact of the development within the setting of Old Oswestry Hillfort, would be to cause less than substantial harm to its significance and that in coming to its decision, the Council should fully consider the relevant NPPF paragraphs).

The application includes updated documents including a Heritage Impact Assessment by Warwickshire Archaeology, December 2022, and a Landscape and Visual Impact Assessment (LVIA) by Pegasus, December 2022, neither of which differs substantively from those submitted as part of the earlier application 20/01033/EIA. In our letter of 16th April 2020 we agreed with the assessment set out in Table 13 of the LVIA of March 2020, that the view from Whittington Road towards Old Oswestry Hillfort would be substantially changed by development that will introduce new built form, albeit set back from the road, and that the proportion of the view affected would be relatively extensive. This remains our view regarding the current proposal.

Recommendation

In NPPF terms we assess that the impact of the development within the setting of Old Oswestry Hillfort, would be to cause less than substantial harm to its significance. In coming to a decision, the Council should fully consider NPPF paragraphs 199 and 200 and apply the tests of NPPF paragraph 202.

Your authority should take these representations into account in determining the application. If there are any material changes to the proposals, or you would like further advice, please contact us.

4.5 **United Utilities** have responded to the application indicating:

United Utilities wish to make the following comments regarding the proposal detailed above.

CONDITIONS

Should the Council be minded to grant permission for this scheme, please note our request for planning conditions to be included in the subsequent decision notice as detailed in section 'UNITED UTILITIES' PROPERTY, ASSETS AND INFRASTRUCTURE

'Where United Utilities' assets cross the proposed red line boundary, developers must contact our Developer Services team prior to commencing any works on site, including trial holes, groundworks or demolition. Please see 'Contacts' section below.

According to our records there is an easement in the vicinity the proposed development site which is in addition to our statutory rights for inspection, maintenance and repair. The easement dated 12/02/1932 UU Ref: w670 has restrictive covenants that must be adhered to. It is the applicant's responsibility to obtain a copy of the easement document, available from United Utilities Legal Services or Land Registry. The applicant must comply with the provisions stated within the document.

Water pipelines

United Utilities will not allow building over or in close proximity to a water main. A large diameter trunk main is located in the site. It must not be built over, or our access to the pipeline compromised in any way. We require an access strip as detailed in our 'Standard Conditions for Works Adjacent to Pipelines', which can be found on our website: <https://www.unitedutilities.com/builders-developers/your-development/planning/buildingover-or-working-near-our-assets/working-near-our-pipes/>. The applicant must comply with this document to ensure pipelines are adequately protected both during and after the construction period.

Following our review of the proposed site layout plan reference P22 2497_DE_005_E and Drainage Strategy plan reference 2 Rev L, should the Council deem this application suitable for approval we request the following condition is included in the subsequent Decision Notice to afford appropriate protective measures for this large asset:

CONDITION 1: Asset Protection

No construction shall commence until details of the means of ensuring the water main that is laid within the site boundary is protected from damage as a result of the development have been submitted to and approved by the Local Planning Authority in writing. The details shall outline the potential impacts on the water main from construction activities and the impacts post completion of the development on the water main infrastructure that crosses the site and identify mitigation measures to protect and prevent any damage to the water main both during construction and post completion of the development. Any mitigation measures shall be implemented in full in accordance with the approved details.

Reason: In the interest of public health and to ensure protection of the public water supply.

Wastewater pipelines

United Utilities will not allow a new building to be erected over or in close proximity to a public sewer or any other wastewater pipeline. This will only be reviewed in exceptional circumstances.

Nb. Proposals to extend domestic properties either above, or in close proximity to a public sewer will be reviewed on a case by case basis by either by a building control professional or following a direct application to United Utilities (see our website for further details).

Important information regarding water and wastewater pipelines and apparatus It is the applicant's responsibility to investigate and demonstrate the exact relationship between United Utilities' assets and the proposed development.

A number of providers offer a paid for mapping service, including United Utilities (see 'Contacts' section below). The position of the underground apparatus shown on water and wastewater asset maps is approximate only and is given in accordance with the best information currently available. Therefore, we strongly recommend the applicant, or any future developer, does not rely solely on the asset maps to inform decisions relating to the detail of their site and instead investigates the precise location of any underground pipelines and apparatus.

United Utilities

Water will not accept liability for any loss or damage caused by the actual position of our assets and infrastructure being different from those shown on asset maps. Developer's should investigate the existence and the precise location of water and wastewater pipelines as soon as possible as this could significantly impact the preferred site layout and/or diversion of the asset(s) may be required. Unless there is specific provision within the title of the property or an associated easement, any necessary disconnection or diversion of assets to accommodate development, will be at the applicant/developer's expense. In some circumstances, usually related to the size and nature of the assets impacted by proposals, developers may discover the cost of diversion is prohibitive in the context of their development scheme. Any agreement to divert our underground assets will be subject to a diversion application, made directly to United Utilities. This is a separate matter to the determination of a planning application. We will not guarantee, or infer acceptance of, a proposed diversion through the planning process (where diversion is indicated on submitted plans). In the event that an application to divert or abandon underground assets is submitted to United Utilities and subsequently rejected (either before or after the determination of a planning application), applicants should be aware that they may need to amend their proposed layout to accommodate United Utilities' assets. Where United Utilities' assets exist, the level of cover to United Utilities pipelines and apparatus must not be compromised either during or after construction and there should be no additional load bearing capacity on pipelines without prior agreement from United Utilities. This would include sustainable drainage features, earth movement and the transport and position of construction equipment and vehicles.

Any construction activities in the vicinity of United Utilities' assets, including any assets or infrastructure that may be located outside the applicant's red line boundary, must comply with national building and construction standards and where applicable, our 'Standard Conditions for Works Adjacent to Pipelines', a copy of which is available on our website. The applicant, and/or any subsequent developer should note that our 'Standard Conditions' guidance applies to any design and construction activities in close proximity to water pipelines and apparatus that are no longer in service, as well as pipelines and apparatus that are currently operational.

It is the applicant's responsibility to ensure that United Utilities' required access is provided within any proposed layout and that our infrastructure is appropriately protected. The developer would be liable for the cost of any damage to United Utilities' assets resulting from their activity.

DRAINAGE

National Planning Policy Framework (NPPF) and the National Planning Practice Guidance (NPPG) advise that surface water from new developments should be investigated and delivered in the following order of priority:

- 1. into the ground (infiltration);*
- 2. to a surface water body;*
- 3. to a surface water sewer, highway drain, or another drainage system;*
- 4. to a combined sewer.*

The applicant should consider their drainage plans in accordance with the drainage hierarchy outlined above.

Please note, United Utilities is not responsible for advising on rates of discharge to the local watercourse system. This is a matter for discussion with the Lead Local Flood Authority and / or the Environment Agency (if the watercourse is classified as main river). In the event that the applicant, or any subsequent developer, approaches United Utilities regarding a connection for surface water to the public sewer, it is likely that we will request evidence that the drainage hierarchy has been fully investigated and why more sustainable options are not achievable. This will be managed through either our 'S106 Sewer Connections' or 'S104 Adoptions' processes.

If the applicant intends to offer wastewater assets forward for adoption by United Utilities, their proposed detailed design will be subject to a technical appraisal by our Developer Services team and must meet the requirements outlined in 'Sewerage Sector Guidance Appendix C – Design and Construction Guidance v2-2' dated 29 June 2022 or any subsequent iteration. This is important as drainage design can be a key determining factor of site levels and layout. The applicant should not presume that the principles outlined within a drainage strategy will meet the detailed requirements for a successful adoption application. We strongly recommend that no construction commences until the detailed drainage design, has been assessed and accepted in writing by United Utilities. Any works carried out prior to the technical assessment being approved is done entirely at the developers own risk and could be subject to change.

WATER AND WASTEWATER SERVICES

If the applicant intends to receive water and/or wastewater services from United Utilities they should visit our website or contact the Developer Services team for advice at the earliest opportunity. This includes seeking confirmation of the required metering arrangements for the proposed development. See 'Contacts' Section below.

If the proposed development site benefits from existing water and wastewater connections, the applicant should not assume that the connection(s) will be suitable for the new proposal or that any existing metering arrangements will suffice. In addition, if reinforcement of the water network is required to meet potential demand, this could be a significant project and the design and construction period should be accounted for.

In some circumstances we may require a compulsory meter is fitted. For detailed guidance on whether the development will require a compulsory meter please visit <https://www.unitedutilities.com/my-account/your-bill/our-household-charges-20212022/> and go to section 7.7 for compulsory metering.

To promote sustainable development United Utilities offers a reduction in infrastructure charges for applicant's delivering water efficient homes and draining surface water sustainably (criteria applies). For further information, we strongly recommend the applicant visits our website when considering any water or wastewater design <https://www.unitedutilities.com/buildersdevelopers/your-development/planning/building-sustainable-homes/>

Business customers can find additional information on our sustainable drainage incentive scheme at <https://www.unitedutilities.com/Business-services/retailers/incentive-schemes/>

4.6 **SC Landscape Consultant** has responded to the application indicating in conclusion:

We consider that the LVIA has been prepared in a proportionate manner in compliance with the guidance set out in GLVIA3 and supporting Technical Guidance Notes.

The LVIA finds that the majority of landscape and visual effects are adverse, with a small number of neutral visual effects. The adverse effects range from moderate to major adverse (significant) to negligible adverse. At Year 15 with mitigation in place, predicted levels of effect reduce and none are predicted to be significant. No beneficial effects are predicted.

The most adverse effects are predicted in the short term for users of the Hillfort, and the significant predicted levels of moderate to major adverse arise from a combination of (a) the very high visual sensitivity of visitors to the Hillfort, and (b) the open views to the south eastern parts of the proposed development. Although the proposed development will bring a Receptor Effects at completion Effects at completion with mitigation in place Landscape effects Principal Settled Farmlands

LCT Negligible adverse Negligible adverse Site's local landscape character Minor to moderate adverse Negligible to minor adverse Visual effects 1 B4580 Whittington Road Moderate adverse Minor to moderate adverse 2 B4580 Whittington Road Negligible adverse Negligible adverse 3 B4580 Whittington Road Moderate adverse Minor adverse 4 A5 Negligible to minor adverse Negligible adverse 5 A5 Negligible adverse Negligible adverse 6 B4580 Whittington Road Negligible adverse Negligible adverse 7 Llwyn Road/NCR 455, Wat's Dyke Negligible adverse Neutral 8 Old Oswestry Hillfort Moderate to major adverse Minor to moderate adverse 9 Old Oswestry Hillfort Moderate to major adverse Minor to moderate adverse 10 B5069 Moderate adverse Minor to moderate adverse 11 A4069 Negligible adverse Negligible adverse 12 Wat's Dyke Neutral Neutral 13 B4579 Neutral Neutral 14 B4580 & Harlech Road Moderate adverse Minor to moderate adverse noticeable new element into the landscape, parts of it will be obscured by the trackside vegetation along the Cambrian Railway, and it appears located within an arc of existing built form comprising Oldport and the settlement edge of Oswestry. Over time, the proposed planting within the development and on the frontage open space to Whittington Road will have the beneficial effect of softening the visually intrusive commercial/employment built form on the southern edge of Whittington Road.

We have concerns that the phased nature of the development places significant risks to the effective delivery of the proposed mitigation and enhancement measures, given that a significant proportion of the measures proposed for Phase 1 are contained within Phase 2. (Officer comment – the development is not phased as the applicants have confirmed it will be carried out in one phase).

Whereas outline details of the observation point are included, no details are provided on the interpretive material relating to the Hillfort.

The recommendations that we made in our February 2023 review in relation to additional information to be sought prior to determination of the application have been satisfactorily addressed. We therefore recommend that, if the application is approved, we recommend that conditions be imposed requiring

- The open space adjacent to the northern boundary of the site be laid out in its entirety by the end of the first planting season after commencement of development of Phase 1*
- The submission of details of the observation point and interpretive material relating to the Hillfort*

4.7 SC Ecology have responded indicating:

I am satisfied with the proposed landscape management plan and the landscape and visual impact assessment prepared by Pegasus Group (March 2023). Any variation of the landscape management plan shall be submitted to and approved in writing by the Local Planning Authority.

No objection:

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.

The Ecological Impact Assessment carried out by Eco Tech (Amended January 2023) determined no substantial change has occurred on site from the original report in November 2018. The majority of the site comprises arable land, with a small region of tall ruderal, which is now dense bramble and short perennial vegetation, which is used for storing materials, so is mostly bare ground as of 2022.

There are five ponds within 500m which were surveyed for their suitability to support great crested newts. Records have confirmed the presence of great crested newts within ponds 2 and 3 (180m and 220m away, respectively). Further eDNA surveys were conducted on pond 1, which produced a negative result for great crested newts. Given the significant barriers between the site and ponds 2 and 3, it has been concluded that a negative impact to great crested newts is unlikely.

The habitats present on site are likely to provide suitable breeding habitats for nesting birds. Records include the presence of Skylark on site, although this species was not recorded on site during any of the site visits.

An outlier badger sett was recorded during the 2018 survey, in the north-western corner. This sett was not recorded in 2022, concluding that the site is no longer used by badgers. However, evidence of badger use was recorded outside of the redline badger, with the closest sett considered to be some 60m from the redline boundary.

The Biodiversity Net Gain assessment (Eco Tech, January 2023) has concluded a net gain on site of 4.00 Habitat Units (+42.60%) and 5.23 Hedgerow Units (768.76%). This has been proposed in accordance with the landscape composite plan, drawing ref: P22-2497_EN_0007_A_0001 (Pegasus Group, December 2022). Should the landscape plan change, the metric calculations will need to be revised to reflect this.

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 wildlife boxes will enhance the site for wildlife by providing additional roosting and nesting habitat.

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

Badgers – pre-commencement survey condition

Within 90 days prior to the commencement of development, a badger inspection shall be undertaken by an appropriately qualified and experienced ecologist and the outcome reported in writing to the Local Planning Authority. If new evidence, or a change in status, of badgers is recorded during the pre-commencement survey then the ecologist shall submit a mitigation strategy for prior approval that sets out appropriate actions to be taken during the works. These measures will be implemented as approved.

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

Biodiversity Net Gain – on-site provision

Before any construction works hereby approved are commenced, a Construction Environment Management Plan (CEMP) and Habitat Management Plan (HMP) expanding upon the information provided within the Biodiversity Metric, Landscape Plan and Ecological Impact Assessment documents detailing, in full, measures to protect existing habitat during construction works and the formation of new habitat, to secure a habitat compensation value of no less than +42.60% Biodiversity Units, shall be submitted to and approved in writing by the Local Planning Authority. Within the CEMP/HMP document the following information shall be provided:

- i) Current soil conditions of any areas designated for habitat creation and detailing of what conditioning must occur to the soil prior to the commencement of habitat creation works (for example, lowering of soil pH via application of elemental sulphur);*
- ii) Descriptions and mapping of all exclusion zones (both vehicular and for storage of materials) to be enforced during construction to avoid any unnecessary soil compaction on area to be utilised for habitat creation;*
- iii) Details of species composition and abundance (%age within seed mix etc.) where planting is to occur;*
- iv) Proposed management prescriptions for all habitats for a period of no less than 30 years;*
- v) Assurances of achievability;*
- vi) Timetable of delivery for all habitats; and*
- vii) A timetable of future ecological monitoring to ensure that all habitats achieve*

their proposed management condition as well as description of a feed-back mechanism by which the management prescriptions can be amended should the monitoring deem it necessary.

The development shall thereafter be undertaken in accordance with the approved CEMP/HMP.

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

Wildlife enhancements condition

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

The following boxes shall be erected on the site:

- 1 in every 3 proposed dwellings will have an external woodcrete bat boxes or integrated bat bricks, suitable for nursery or summer roosting for small crevice dwelling bat species.*
- 1 in every 3 proposed dwellings will have artificial nests, of integrated brick design, suitable for swifts (swift bricks).*
- A minimum of 15 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 10 invertebrate bricks shall be incorporated into the site design.*
- A minimum of 3 hedgehog domes (standard design) will be incorporated into the site design.*
- A minimum of 2 hibernaculum shall be created, suitable for amphibians.*

The boxes/enhancements 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.

For swift bricks: 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 7) North or east/west aspects preferred. (See <https://www.swift-conservation.org/Leaflet%20-%20Swift%20Nest%20Bricks%20-%20installation%20&%20suppliers-small.pdf> for more details).

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

Lighting Plan condition

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

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

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

Working in accordance with method statement condition

All works to the site shall occur strictly in accordance with the mitigation and enhancement measures regarding bats, badgers and birds as provided in Section 5 of the Ecological Impact Assessment (Eco Tech, amended January 2023).

Reason: To ensure the protection of and enhancements for bats, which are European Protected Species, badgers, which are protected under the Protection of Badgers Act 1992 and birds which are protected under Section 1 of the 1981 Wildlife and Countryside Act (as amended).

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 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.

Badgers informative

Badgers, their setts and the access to the setts are expressly protected under the Protection of Badgers Act 1992. It is a criminal offence to kill, injure, take, possess or control a badger; to damage, destroy or obstruct access to a sett; and to disturb a badger whilst it is occupying a sett.

Badgers are a highly mobile species and are known to create new setts and abandon and re-use existing setts in relatively short periods of time.

No development works or ground disturbance should occur within 30m of a badger sett without having sought advice from an appropriately qualified and experienced ecologist and, where necessary, without a Badger Disturbance Licence from Natural England. All known badger setts must be subject to an inspection by an ecologist immediately prior to the commencement of works on the site.

There is an unlimited fine and/or up to six months imprisonment for such offences. Items used to commit the offence can also be seized and destroyed.

General site informative for wildlife protection

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 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 trimmed 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 trimmed 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 amphibians discovered should be allowed to naturally disperse. Advice should be sought from an appropriately qualified and experienced ecologist if large numbers of common 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.

4.8 SC Learning and Skills Manager has responded indicating:

Shropshire Council Learning and Skills forecasts that the proposed development, along with other development proposals in the vicinity will impact on future schooling requirements in the catchment area. It is currently forecast that the local primary school may require additional capacity and requirements will be monitored. The secondary school will require additional capacity in the current plan period. It is therefore essential that the developers of this and any new housing in this area contribute towards the consequential cost of any additional places/facilities considered necessary to meet pupil requirements in Oswestry. It is

recommended that increased capacity requirements as a result of this development for schooling in the area is met from CIL contributions.

4.9 West Mercia Constabulary have responded indicating:

I refer to my comments made on previous applications concerning this development. My comments remain the same and are detailed below.

I comment on this proposal as Design Out Crime Officer for West Mercia Police. I do not wish to formally object to the proposal at this time. However there are opportunities to design out crime, reduce the fear of crime and to promote community safety.

Therefore should this proposal gain planning approval the below advice should be considered by the developer.

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

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

In recent times there has been a tendency to install thumb turn locks on front doors. This type of locking device should only be considered when the lock cannot be easily seen from the outside, any glazed panels are fitted with laminate glass to standard PAS24:2016/ STS 201 and a deflector is fitted to the inside of any letter box opening. Thumb turn locks should never be considered for rear doors if they are half glazed and the internal thumb turn can be easily seen from the outside. This will increase the potential for burglary and other offences to occur.

The principles and standards of the Secured By Design initiative give excellent guidance on crime prevention through the environmental design and also on the

physical measures. Details can be found at www.securedbydesign.com

During the build the developer has a responsibility for site security. They should aim to keep any compound, machinery and tools as secure as possible whilst on site. Offenders will visit such sites to test security measures that are or are not in place and if they are not up to standard then they will be attacked causing an increase in crime in the locality. Every effort should be made to keep property safe and secure. The Design Out Crime Officer can offer professional advice if requested to do so.

Please do not hesitate to contact me if you would like clarification of any of my comments.

4.10 **SC Housing** has responded indicating:

The mix of affordable house sizes are now acceptable and the proforma shows the correct financial contribution.

4.11 **SC Environmental Protection** have responded indicating:

Environmental Protection have reviewed the application and have the following comments on Noise and contaminated land: Noise The additional noise information provided clarifies that the mitigation scheme proposed in the acoustic report is acceptable if fully implemented. Should it be considered appropriate to grant consent I recommend that the following condition is applied:

*The approved mitigation scheme, as detailed in Revision 4 of the Hoare Lea Acoustic report dated 13 March 2023, shall be completed prior to the first occupation of the development and shall thereafter be retained.
Reason: To protect residential amenity, health and wellbeing.*

Contaminated Land A report by ASL; Site Investigation, Land at Whittington Road, Oswestry; Report No. 223-18-020- 09 Rev1, dated September 2018 has been submitted in support of this application. Some potential contaminant linkages have been identified that require remediation in the northwest area of the site (gas and soil). Outline remediation proposals have been proposed, but a more detailed remediation strategy is required to include validation proposals.

Accordingly, the following must be included as conditions if planning permission is granted:

a) 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. b) The works detailed as being necessary to make safe the contamination shall be carried out in accordance with the approved Remediation Strategy. c) 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 DEFRA and the Environment Agency's 'Model Procedures for the Management of Land Contamination, CLR 11' and must be submitted to and approved in writing by the Local Planning Authority. Where remediation is necessary a remediation scheme must be prepared which 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. The remediation proposal is subject to the approval in writing by the Local Planning Authority. d) Following completion of measures identified in the approved remediation scheme a Verification Report shall be submitted to and approved in writing by the Local Planning Authority that demonstrates the contamination identified has been made safe, and the land no longer qualifies as contaminated land under Part 2A of the Environmental Protection Act 1990 in relation to the intended use of the land.

Reason: To ensure that risks from land contamination to the future users of the land and neighbouring land are minimised, together with those to controlled waters, property and ecological systems, and to ensure that the development can be carried out safely without unacceptable risks to human health and offsite receptors.

Information on how to comply with conditions and what is expected of developers can be found in the Shropshire Councils Contaminated Land Strategy 2013 in Appendix 5.

An earlier response indicated:

Environmental Protection has reviewed the noise and odour reports provided with the application and has the following comments:

Noise

Following on from assessments carried out for the previous application the current proposal has incorporated a single aspect design for properties facing the commercial use to west of the site which has largely mitigated the impact of commercial noise on these properties. The rear rooms of the houses closest to the commercial use (24-31) would slightly exceed the recommended noise standard. These properties have still been allocated for affordable housing despite the comments in the previous application, as detailed below.

It is also noted that the affordable housing has been located in the areas most impacted by noise. Affordable homes are provided to ensure that those on lower

incomes have availability to housing to fit their needs. Individuals are considered more likely to have limited available funds with which to procure additional betterments to their residence to improve their health and wellbeing. For example some may not have the funds to maintain mitigation measures such as acoustic glazing or fencing or afford to spend more time out of the residence on recreation and leisure activities. Where a site can only achieve a good level of amenity in respect of noise, in some of the proposed dwellings, these should be prioritised for affordable housing. This is in line with the objectives of health and wellbeing documentation such as the Public Health Outcomes Framework which has an overarching objective of reducing health inequalities.

Modelling information has been provided which gives the façade noise levels for the properties to the west of the site. However, modelling and façade noise levels have not been provided for properties to the east of the site that will be impacted by road traffic noise from the A5 and Whittington Road. Please could the applicant provide ground and first floor façade levels for the remainder of the properties. This is relevant to establish the level of ventilation required in accordance with Part O: overheating of the building regulations which came into effect in June 2022.

Odour

The odour report conclusions that there is not likely to be any significant impact due to odour from the neighbouring commercial activities is accepted.

4.12 **SC Drainage** have responded indicating:

The technical details submitted for this Planning Application have been appraised by WSP UK Ltd, on behalf of Shropshire Council as Local Drainage Authority.

All correspondence/feedback must be directed through to Shropshire Council's Development Management Team.

Condition:

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.

Comments:

1. The Flood Routing Plan 0131/102 Rev B shows too many gullies. Any exceedance flow generated as a result of storms with a greater magnitude of

50mm/hr can be stored on the carriageway or within less vulnerable open areas of the development.

An analysis should be carried out to ensure that exceedance does not lead to the flooding of property or contribute to flooding outside of the development site with a view to reduce the number of gullies.

2. An existing culverted watercourse on the development's south-west boundary is likely to be present, which the diverted sluice drain is connecting to, as shown on drawing 0131/2 Rev L. The existing culvert should be clearly identified and a 6m easement allowed for future maintenance.

3. The Drainage Strategy drawing 0131/2 Rev L indicates that the pond design was based on a test result from WS403. No details of this trial hole can be located. Details should be supplied or confirmation it is based on WS 107. Although borehole logs have been provided with the submission, no pit reference have been provided. These must be supplied to ensure suitability of the ground given that the pond design is based on a single test point.

4. A drained area plan clearly showing the allowance for urban creep must be provided together with hydraulic and simulation calculations for the drainage layout, including the design of the pond for a 1% plus CC critical storm event.

5. Shropshire Council's Highway Development Control should be consulted on the location of the oversized pipes under the highway which they may object to if adopting the highway above.

4.13 **SC Trees** have responded indicating:

The application is a resubmission and previous comments on the arboricultural aspect made in respect of application 20/01033/EIA are relevant to this proposal. It is advised that the Council's landscape advisor is consulted on this proposal.

The site of the proposed development is currently open farmland with a low level of tree cover. There a number of individual specimens, mainly along the south and west boundary and there are also several lengths of native species hedgerow, again mainly around the boundaries of the site, with on section running north south through the site. There are no veteran trees or areas of ancient woodland on or adjacent to the site.

An Arboricultural Impact Assessment has been prepared and submitted with the application. This has identified 16 individual trees and 6 hedgerows 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. It is noted that the AIA is dated July 2018 and it is recommended that the it be updated to reflect any changes in the tree cover on the site, particularly in light of the impact of ash die-back.

The site layout has been designed to accommodate the majority of the existing trees and hedgerows, with the only loss being the section of hedgerow running north south through the site and part of the hedgerow along Whittington Road, to allow for the formation of the main access road. These hedgerows are not particularly significant and do not meet the criteria of an important hedge in terms of plant species under the 1997 Hedgerow Regulations.

The development includes landscape tree planting and a scheme has been designed to take account of the advice given in the arboricultural impact assessment and from Shropshire Council. The scheme makes provision for additional tree planting along the boundary of the site fronting Whittington Road, tree planting on the north and west boundary to soften views into the site from the Hillfort and surrounding countryside and feature trees forming an avenue through the site and individual specimens.

The proposal would have a very low impact on the existing arboricultural resource and the new planting would bring significant benefits and increase the extent of the urban forest in Oswestry.

No objection are raised to the proposed development, it is recommended that the protection of the existing retained trees and the landscape planting site is a condition of any grant of planning.

4.14 SC Conservation Manager has responded indicating:

It is understood that the proposed development site comprises a 4.54ha area of agricultural land immediately north of Whittington Road, on the northern edge of Oswestry. The proposed development site has been allocated for up to 117 dwellings in the Site Allocations and Management of Development (SAMDev) component of Local Plan, adopted in December 2015, as Site OSW004 and within the development boundary for the town. The proposed development comprises 83 dwellings, together with associated access, landscaping and public open space, an electricity substation and drainage, all to be located within the allocated site boundary. In this respect, the proposed development is broadly the same as the previous submitted under ref. 20/01033/EIA, with minor amendments to the layout consisting of changes to house types on a limited number of plots.

At its nearest point, the proposed development site is located c.300m southeast, and within the setting, of the Scheduled Monument of Old Oswestry

hillfort, and two adjacent sections of Wat's Dyke (NHLE ref. 1014899). Their designation as such indicates the national importance that these monuments, and the National Planning Policy Framework (NPPF) therefore recognises that they are designated heritage assets with the highest level of significance. A Statement of Significance for the Scheduled Monument was prepared by English Heritage (now Historic England) as part of a Statement of Common Ground (SoCG) that was agreed with Shropshire Council in October 2014, prior to the examination of the SAMDev Plan. In summary, this recognises that Old Oswestry Hillfort is one of the largest and most impressive hillforts in England, in terms of the scale and complexity of its earthworks. Built, reworked and occupied over several centuries in the Iron Age as a social and economic centre for an extended community, the hillfort remains a prominent landmark in the surrounding landscape. Wat's Dyke was constructed in the early medieval period as frontier bank and ditch and statement of political control, and deliberately included the earlier hillfort in its alignment at this location. The SoCG acknowledges that the settings of the Hillfort and two adjoining sections of dyke remains predominantly rural, a factor which makes an important contribution to their significance. The Hillfort, in particular, affords prominent views to the west, north and east that are not appreciably affected by modern development. It is located close to the northern urban edge of Oswestry but to a large extent is screened from it by the small, steep and heavily wooded hill directly to the south of the Hillfort. Other than Jasmine Gardens, the urban form of the town does not extend northwards onto higher ground within views of the hillfort, which thus maintains a separateness between them.

In terms of the development site itself, it includes part of a system of World War I practice trenches (HER PRN 31654) associated with the former Park Hall Barracks site. The archaeological character of these trenches was evaluated in 2018, which indicated that they are likely to have been truncated by later-20th and 21st century ploughing, such that no earthwork remains survive. Below ground, the surviving cut features were considered to be too narrow to have facilitated the free movement of soldiers and too shallow to have afforded any real protection, although if the up-cast was used to create parapets this would have been less of an issue. Although no finds were made that provide clear dating evidence, it was concluded that the trenches may have dated to the earlier part of the War and were perhaps later replaced by the larger systems both within the Hillfort itself and also to the east of Gobowen. Consequently, the proposed development site is considered to hold high archaeological interest for early 20th century military archaeological remains. Further archaeological investigation of the trench system is necessary to clarify their date, development and function.

The southern part of the proposed development site is also crossed by the line of the Vyrnwy Aqueduct (HER PRN 21491): a recently refurbished late Victorian and mid-20th century high pressure water main carrying water from the reservoir at Lake Vyrnwy to supply Liverpool. It is understood that work began on the

Vyrnwy Dam and the associated Aqueduct in 1881 and that the water supply reached Liverpool in 1891. Originally comprising two 42inch diameter pipes, a third pipe was laid between 1926 – 1938. Both construction projects involved large scale cut and fill operations that will have caused a high degree of disturbance and truncation of any earlier archaeological deposits across the southern part of the proposed development site.

In addition, the Portable Antiquities Scheme (PAS) have recorded numerous small finds made by metal detectorists within the wider surroundings of the hillfort. These include finds dating to the later prehistoric and Roman periods which provide evidence for the wider utilisation of the landscape prior to, during, and in the centuries immediately after the Hillfort was in use during the Iron Age. Finds have been recorded from within the area of the proposed development site itself which are of medieval and post-medieval date. These items comprise a number of coins, together with a silver medieval brooch and a post-medieval copper alloy pipe tamper, all of which are likely to represent casual losses during routine activity within the agricultural landscapes of the periods.

RECOMMENDATION:

The following advice is provided as a joint consultation response on behalf of the Historic Environment Team.

The principle of developing SAMDev site OSW004, specifically in relation to impacts on the significance of the Scheduled Monument Old Oswestry Hillfort, and two adjacent sections of Wat's Dyke, was considered in detail by the Planning Inspector in her Report of October 2015 on the Plan Examination at paragraphs 233 – 245 (pgs 55-59). The relevant extracts from the Inspectors report are available in full on the Council's website at: -

<https://www.shropshire.gov.uk/media/8232/samdev-plan-inspectors-report.pdf>

It is understood that the Inspector's considerations and conclusions regarding this site remain a significant material planning consideration when determining the current planning application. Consequently, a summary of her findings is provided here.

The Inspector begins (para 233-236) by outlining the heritage significance of Old Oswestry Hillfort and the associated sections of Wat's Dyke. She explicitly recognises (para 234), as required by Paragraph 132 of the National Planning Policy Framework as it existed at the time (and now covered by paras 199 and 200 of the Framework), that as a Scheduled Monument the Hillfort is a designated heritage asset of the highest significance, such that great weight should be given to its conservation. She then outlines the requirements of Paragraphs 133 and 134 of the Framework at that date (now paras 201 and 202) in relation to the categories of 'substantial harm' and 'less than substantial harm' to heritage significance.

At paragraph 237 of her Report the Inspector summarises the locational characteristics of OSW004, noting that it is situated adjacent to an existing industrial development (immediately to the west) and opposite existing

development on the opposite side of Whittington Road. In paragraph 238 she indicates that the site promotor had provided a Heritage Impact Assessment that accorded with the relevant national guidance on the setting of heritage assets. The Inspector states that "Views to and from the Hillfort undoubtedly contribute to its significance and aesthetic value". She goes on to recognise that there are contrary opinions on the degree to which development of OSW004 would disrupt these views and indicates that she has considered these. Indeed, she acknowledges elsewhere (paras 233 and 244) that at the time she was aware that the development of this site was strongly opposed, as remains the case in respect of the current application.

In paragraphs 239- 241 of her Report the Inspectors undertakes her own assessment of the impacts that the development of OSW004 would have upon the setting, and thereby the significance, of the Hillfort. She begins (para 239) by stating that the development on OSW004 "...would not impinge on the rural setting of the Hillfort to the west, north and east.". The Inspector notes (ibid.) that Oldport Farm is situated a short distance south-east of the hillfort and that the "...relatively modern agricultural buildings have some impact on the immediate rural setting of the Hillfort...".

She goes on in para 240 of her Report to maintain that it would be "...seen from the Hillfort against the existing urban edge, in views to the south-east.". Because the site is lower lying than the land to the west of the B5069 (Gobowen Road), the Inspector acknowledges that there would be a roofscape presence in views to the south-east from the hillfort, such that careful design consideration would be necessary. In the south-western corner of the site, however, development would be partially obscured by the existing industrial development. The Inspector concludes (ibid.) that "...long reaching views over the development would be maintained...", and that any intrusion upon the existing views from the Hillfort would be minimal, such that the "...significance of the designated heritage asset would not be compromised."

In terms of the views towards the hillfort, in paragraph 241 of her Report the Inspector observes that the relatively flat topography and well-maintained hedgerows between Whittington Road and the Hillfort facilitate uninterrupted views towards the hillfort both on the approach to Oswestry from the A5 and in the opposite direction. As such, she acknowledges that these views would be impacted where OSW004 abuts Whittington Road. She does, however, note that commercial development which impinges on the rural setting of the hillfort is already present along this section of road, and concludes (ibid.) that the development of OSW004 "...would not extend the built development of Oswestry any further along Whittington Road than currently exists".

In paragraphs 242 and 243 the Inspector outlines a set of design principles, derived from the SoCG between English Heritage and Shropshire Council, which would need to be met to minimise impacts on the setting of the Hillfort and therefore make development acceptable. In paragraph 244 she gives considerable weight to the fact that Historic England did not maintain an objection to OSW004. Critically, the Inspector finds (ibid.) that, subject to these

design principles set out in the SoCG being adhered to, the development of OSW004 would "...lead to less than substantial harm to the significance of a designated [heritage] asset."

As required by the NPPF, at paragraph 245 of her Report the Inspector then undertakes a balancing exercise in which she weighs the public benefits of the proposal in relation to the various other policy considerations that applied at that time. Having done so, the Inspector concludes (ibid.) by stating that she is "...satisfied that the public benefits of the proposal would clearly outweigh the less than substantial harm to Old Oswestry Hillfort heritage asset and any other harm that might arise."

It is important to recognise that the Inspector's finding of less than substantial harm to the significance of the Hillfort, in relation to her assessment of the impacts the develop of OSW004 would have, aligns with the distinction between substantial and less than substantial harm that has been established through case law. In this respect, the law remains the position established by Mr Justice Jay in Bedford Borough Council vs SSCLG and Nuon UK Ltd [2013] EWHC 2847, in which he observed that (at para 25): -

"...in the context of physical harm, [substantial harm] would apply in the case of demolition or destruction, being a case of total loss. It would also apply to a case of serious damage to the structure of the building. In the context of non-physical or indirect harm, the yardstick was effectively the same. One was looking for an impact which would have such a serious impact on the significance of the asset that its significance was either vitiated altogether or very much reduced."

Consequently, 'substantial harm' is established as a high test. This is emphasised in the relevant section of the National Planning Practice Guidance (NPPG), which also states that it is "...the degree of harm to the asset's significance rather than the scale of the development that is to be assessed." (Paragraph: 018 Reference ID: 18a-018-20190723).

When assessing the current planning application, and in addition to the Inspectors Report from the SAMDev examination and case law, officers have given due consideration to Policies CS6, CS17, MD2, MD13 and S14.1/S14.1A of the Local Plan; the policies contained in Chapter 16 of the NPPF (July 2021); the guidance contained in the NPPG; and Historic England's Historic Environment Good Practice in Planning Advice Notes 2 (Managing Significance in Decision-Taking in the Historic Environment) and 3 (The Settings of Heritage Assets) and Advice Note 12 (Statements of Heritage Significance: Analysing Significance in Heritage Assets).

In relation to the requirements set out in Local Plan (SAMDev) Policies MD13 and S14.1/S14.1A and Paragraph 194 NPPF, the Applicant has submitted a Heritage Impact Assessment by Warwickshire, an Archaeological Evaluation by Warwickshire Archaeology, an Archaeological Statement by Castlering Archaeology), and a Landscape and Visual Impact Assessment (Rev A) by Pegasus Group. It also includes a Planning Statement by Evolve Planning and a Design and Access Statement by Pegasus Group, both of which seek to explain how the development has been designed in response to the design

principles set out in the SoCG and Local Plan (SAMDev) Policy S14.1/S14.1A.

Shropshire Council

The Archaeological Evaluation report that accompanies the application supplements the previously available information for the proposed development site in order to provide a full archaeological assessment of it. The proposed development site was included within a wider area of land that was subject to an Archaeological Desk Based Assessment by Castleryn Archaeology in 2006; a sample geophysical survey by GSB Prospection in 2007, which provided data for a significant proportion of the proposed development site; and a trial trench evaluation by Oxford Archaeology North in 2009, which included five evaluation trenches located within the current proposed development site boundary. Parts of the site were also subject to an archaeological watching brief during the laying of a new water main in 1992, and included as part of the desk based assessment prepared for the Vyrnwy Aqueduct refurbishment works in 2010. Taking account of the easement for the aqueduct, the 2018 evaluation trenches were therefore located to test geophysical anomalies that were not investigated in 2009, including the WWI practice trench system, together with 'quiet' areas and areas outside of the geophysical survey areas. The evaluation located and characterised the WWI trench system as described above. However, no features or deposits of an earlier date, including of prehistoric date, were found during in either the 2018 evaluation or the earlier interventions.

In terms of its design, the proposed development is located wholly within the allocation boundary for OSW004 and, at 83 units, is also for 34 fewer than the provision set out in Local Plan (SAMDev) Policy S14.1/S14.1A. The density of the site layout is therefore lower than would have been necessary if the maximum allocated number of 117 units were proposed, with landscaping, amenity space and the attenuation basin used to break up the massing of the development, as required by the design guidelines set out in the policy. The layout is set back from Whittington Road due to the easement for the Vyrnwy Aqueduct and the resultant area used for public amenity space, whilst transitional planting and further public amenity space with circulatory paths would be provided on the northern boundary, including the part of the site closest to the hillfort, in order to provide a landscaped boundary with the surrounding countryside. An axial pedestrian access from Whittington Road provides linkages between these areas of amenity space and an observation point with interpretation boards and seating is proposed at its northern end, which will provide views out towards the Hillfort and the surrounding countryside, whilst other views of the monument will be gained from the other paths within the northern amenity spaces and some dwellings. It is therefore considered that the requirements set out in items 1 and 2-5 of the development guidelines set out in Local Plan Policy S14.1/S14.1A are met by the amended scheme. A Landscape Management Plan has been submitted with the application that other internal consultees will comment upon.

It is understood that due to a change in the legal status of the railway line since the adoption of the SAMDev plan in 2015, it is not currently possible to create

the footpath linkage to Gobowen Road. For the same reason it is also not possible to create a pedestrian and cycle linkage back to the town centre. In the northern part of the proposed development site the plots face outwards towards the amenity space. This will create views out from the development into the surrounding countryside, as well as providing surveillance over, and a sense of ownership of, these public areas. Whilst the units on the northwestern corner would extend north of the portal framed buildings on the adjacent industrial site they would not extend northwards beyond its built northern boundary. As required by SAMDev Policy S14.1/S14.1A, the density and porosity of the proposed layout will provide glimpses of the hillfort from within the site. None of the units will be higher than two stories and garages will be single storey, and together with the mixture of house types, this is intended to break up the massing of the development and provide for a varied roofscape. The Design and Access Statement indicates that the proposed brick selection is intended to colour match the vernacular buildings elsewhere in the town, whilst a muted palette of dark brown and black roofing materials is proposed. In terms of wider views to and from the Hillfort, and as envisaged by the Planning Inspector in her Report on the SAMDev plan, the site would sit against the existing urban edge of the town when viewed from the hillfort. Because it is contained within the allocated site boundary, the proposed development would not extend into the open countryside, which both the SoCG and the Applicant's Heritage Impact Assessment recognise make a greater contribution to the monument's significance.

The Landscape and Visual Impact Assessment includes, at Appendix D, photomontages which illustrates a 'before' and 'after' view from the southeastern part of the hillfort. As the Inspector anticipated, the development is readily visible in this view, although it's south-western end is partially screened by the adjacent industrial development and the long reaching view over the proposed development site would remain. The proposed roofscape material are, however, recessive by comparison with the existing commercial development south of Whittington Road and neither does the development protrude north of the modern sheds around Oldport Farm, west of the Gobowen Road.

In terms of the views towards the monument from western end of Whittington Road, and again as Planning Inspector anticipated would be the case in her Report on the SAMDev plan, Landscape and Visual Impact Assessment indicates that this will be changed, such that currently uninterrupted views of the monument curtailed despite the layout being set back from the road frontage. Views would still be possible from further along Whittington Road, near the roundabout on the A5. However, as a consequence to these changes to the existing unimpeded views of the hillfort from the section of Whittington Road adjacent to the proposed development would be affected and some harm to its significance of the monument would arise as a consequence.

In their consultation response of 1 March 2023, Historic England state that, as per their advice on the previous application (20/01033/EIA), they consider

“...that the view from Whittington Road towards Old Oswestry Hillfort would be substantially changed by development that will introduce new built form, albeit set back from the road, and that the proportion of the view affected would be relatively extensive.” As a consequence, Historic England advise that they “...assess that the impact of the development within the setting of Old Oswestry Hillfort, would be to cause less than substantial harm to its significance.” As such they advise the local planning authority should apply the tests set out in paragraphs 199, 200 and 202 of the NPPF.

Taking account of Historic England’s advice and the legal definition of substantial harm as set out above, officers consider that the level harm that would arise to the significance of the Scheduled Monument as a consequence of the effects upon its setting would be consistent with that which Planning Inspector envisaged would arise when allocating the site. As such, officers concur that the proposed development would cause less than substantial harm to the significance of the hillfort as a Scheduled Monument. The decision taker is therefore directed to the tests set out in paragraphs 199, 200 and 202 of the NPPF.

Consequently, it is advised that the decision taker must ensure that they take the requirements set out in Policy MD 13 and the development guidelines set Policy S14.1/S14.1A of the Local Plan are met or can be secured by condition; and that the tests set out Paragraphs 199 and 200 of the NPPF are fully taken into account when undertaking the planning balance in relation to the tests set out in Paragraph 202. If, after doing so, the decision taker considers the public benefits of delivering the proposed number of houses on this site would outweigh the identified harm to the hillfort as a Scheduled Monument, such that they are minded to grant planning permission, it is recommended that appropriate planning conditions as set out below are applied to minimise the impact on the setting of the Hillfort (other internal consultees will advise conditions in relation to the Landscape Management Plan).

In addition, given the archaeological interest on the development that arises from the presence of WWI practice trenches, and in line with Policy MD13 of the Local Plan and Paragraph 203 and 205 of the NPPF, it is advised that that a programme of archaeological work is made a condition of any planning permission for the proposed development. This should comprise a strip, map, and record exercise focused on the practice trench system that aims to determine its date and function. This programme of work should also include an outreach programme maximises the opportunity to make the results available to as wide a public as they become available, including providing access to the site itself whilst the work is underway via organised open days/ site tours. An appropriate planning condition is advised below.

Suggested Conditions:

Details of External Materials:

No development approved by this permission shall commence until 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 impacts of the development on the setting of designated heritage assets are minimised.

Lighting:

No development approved by this permission shall commence until a lighting design that minimises skyglow has been submitted to and approved in writing by the local planning authority. The lighting shall be carried out in complete accordance with the approved details

Reason: To ensure that the impacts of the development on the setting of designated heritage assets are minimised.

Archaeology:

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

Reason: The development site is known to have archaeological interest.

4.15 **SC Highways** have responded indicating:

The site is an allocated site in the SAMDev and therefore as a matter of principle the development of this site is considered acceptable both in terms of land use and gaining a suitable means of access to the site from Whittington Road.

It is noted that whilst National Highways (NH) initially raised comments regarding the impact of the development traffic on Whittington Road roundabout, NH have subsequently issued further comments and raise no objection to consent being granted and have not sought to impose any planning conditions.

Following discussion with the applicant company, the General Layout Drawing has been updated to clarify carriageway widths, footway widths, radii and visibility splays. These were requested to provide a check upon the layout being suitable for adoption under a Section 38 Agreement and I can confirm that the layout is acceptable. This needs to be viewed alongside the Planning Layout drawing, which highlights the proposed ghost island junction arrangement on Whittington Road, which includes a pedestrian crossing refuge as part of its design. This is shown in further detail within the Proposed Site Access drawing contained within the Transport Assessment (TA). Again this would be subject to the Section 278 Agreement technical checking and Stage 2 and 3 Road Safety Audits.

The application, as indicated above, is supported by a TA which concludes that the development traffic can be adequately catered for on the highway network. This is the view also and supported by Highways. There are no highway safety or capacity grounds that would justify an objection to consent being granted.

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

- 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.*
- 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.
Reason: - To ensure that the estate streets serving the development 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.*
- Prior to the development hereby permitted being first occupied the Whittington Road ghost island junction to serve the development shall be fully implemented in accordance with engineering details to be first submitted to and approved in writing by the Local Planning Authority.
Reason: In the interests of highway safety.*
- Upon the development hereby permitted being first occupied the Travel Plan shall be implemented in accordance with the approved details: the Travel Plan shall therefore remain in force for the lifetime of the development.
Reason: To promote sustainable travel in the interests of reducing car born traffic.*

-	Land North Of Whittington Road
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*In respect of the above please can I ask that the approved plans include the **General Layout Drawing the Planning Layout drawing and the Proposed Site Access drawing contained within the Transport Assessment (TA)***

4.16 **SC Planning Policy** have responded indicating: No response received.

4.17 **Public Comments**

4.18 One hundred and twenty eight letters of objections have been received from members of the public. Key planning related issues raised can be summarised as follows:

- Negative detrimental impacts on surrounding public highways as a result of an increase in vehicular movements.
- The proposed development site is located too close to the Hill Fort Site.
- None of the proposed houses are carbon zero.
- Site lacks adequate connection links to public transport.
- There will be additional strains on surrounding public highways.
- Site is located too close to the Gobowen railway line
- Oswestry has an oversupply of potential buildings suitable for use in relation to affordable housing.
- Duty to protect ancient monuments for future generations.
- Too large of a development in consideration of local infrastructure.
- Cambrian Heritage Railway are exploring the re-opening of the Gobowen route of the railway and this development could impact on its future use in relation to the national rail network.
- Developments should demonstrate appropriate weight to the significance and setting of the old Oswestry Hillfort.
- The application is substantially the same as the previous application on site subsequently refused planning permission.
- Lack of local infrastructure to support the resulting development and future occupants of the dwellings
- Loss of high quality agricultural land.
- Overwhelming public opposition to the development.
- Cumulative impacts with existing development.
- Proposal not considered to be in accordance with either local plan policies or the NPPF.
- The proposal exceeds northern limit for development as set out in SamDev and the road layout indicate that further expansion beyond this boundary is intended.

4.19 A letter of objection has been received from a campaign group set up to oppose the application for residential development. The main broad of the text as set out in the objection is as follows:

*OBJECTIONS FROM HOOOH – Hands Off Old Oswestry Hillfort
Heritage issues and non-compliance with NPPF*

- *No consideration has been given to the cumulative effects of the proposals, that is, how the altered landscape will add to previous harm resulting from the erosion of the hillfort setting from northwards creep of the town. This area was previously respected by Council planning, which used The Coppy as a natural screen for earlier housing development. The decision now to develop beyond The Coppy sets a worrying new precedent for future proposals.*
- *Contrary to NPPF para 174, the application would adversely affect a valued and historically charged landscape that provides a visual link between the scheduled monuments of Old Oswestry and Wat's Dyke with Oldport, Park Hall, and Whittington, and the ancient road connecting them. The existing rural landscape enables the appreciation of the hillfort's wider heritage connections through its setting. This would be radically changed by the proposed housing which would create an urban suburb devoid of historical resonance and prevent future appreciation. Gillespies' Shropshire Landscape & Visual Sensitivity Assessment (2018) identifies this landscape east and south-east of Old Oswestry as valued, stating: views experienced are of high sensitivity to change arising from new housing..'*
- *Contrary to NPPF para 194, the scale of the development fails to recognise the significance of Old Oswestry hillfort and the contribution that its setting makes to that significance.*
- *The proposals would see town expansion into a crucial area of Old Oswestry's setting, visually triggering the start of enclosure of the hillfort in its south-eastern landscape. Contrary to NPPF 199, this does not take proper account of the significance of Old Oswestry as a designated heritage asset nor give sufficient weight to the asset's conservation, especially when 'the more important the asset, the greater the weight should be'. This applies even if the impacts of development are assessed as constituting 'less than substantial harm to its significance'.*
- *Contrary to NPPF para 200, the application does not provide 'clear and convincing justification' for loss of significance to a designated heritage asset. The proposal would cause harm to the heritage significance of the scheduled monument Old Oswestry hillfort through urban encroachment and destruction of a key part of its historical and landscape setting. The LPA should refuse consent, because it cannot be demonstrated that the harm/loss is necessary when houses can be built elsewhere, given that more than sufficient housing land has been identified for Oswestry's future growth, including east of the A5 bypass.*
- *The proposals would devastate the existing views of the hillfort from the B4580 Whittington Road, which allows the monument to be appreciated and experienced in its landscape. Contrary to NPPF para 206, development would not 'enhance or better reveal' the significance of the hillfort or 'preserve those elements of the setting that make a positive contribution to the asset'.*

Key stakeholders/heritage organisations have objected

• *The following stakeholders/heritage organisations have so far objected: Oswestry Town Council, Oswestry & District Civic Society, Oswestry & Border History & Archaeology Group (OBHAG), Cambrian Heritage Railways, The Prehistoric Society, Council for British Archaeology, Historic Buildings & Places (aka Ancient Monuments Society).*

Fails to meet SAMDev policy Oswestry S14 and underpinning Statement of Common Ground (SoCG)

Exceeds northern limit for development

• *In the SoCG underpinning S14, Historic England (formerly English Heritage) and Shropshire Council agreed that: 'The layout should ensure that new development does not protrude to the north of the existing built development, to the west of the allocation.' In comments to the planning proposals in 2020, Historic England clarified that this refers to the factory buildings at Traditional Products. This northern limit (see image below) was intrinsic to the Inspector's assessment of less than substantial harm and approving the OSW004 allocation in SAMDev. The proposals significantly exceed this building line, with around half of the dwellings either wholly or partly breaching it.*

No access over railway

- *Due to legal conditions that would prevent access across the Cambrian railway line, the proposals do not meet the S14 requirement to provide 'pedestrian and cycle path links to the former railway and a new footpath link between Whittington Road and Gobowen Road to improve access towards the Hill Fort'. Therefore, the planning application fails to provide a key public benefit of access to the hillfort that gave weight to the Inspector's decision to approve the allocation of OSW004 for housing. NB: Details about the legal situation and other issues concerning the railway line are fully explained in the objection submitted by Mr Rob Williams on behalf of Cambrian Heritage Railways.*
- *The development faces other significant material issues due to its proximity to the Cambrian line; the proposal continues to refer to the railway as 'disused' and does not consider the potential noise, vibration, safety and other hazards and problems of being sited next to an operating railway. The landscape and access routes leading towards the north and northwest of the site are designed around the principle of gaining access over the railway, presenting potential dangers to those expecting or attempting to cut across to Gobowen Road towards the hillfort (which is not accessible to the public from the east, in any case).*

No associated works to Whittington Road and Gobowen Road junction

- *The proposals do not include any detail of associated works to meet the S14 requirement that development is 'subject to improvements to the Whittington and Gobowen Roads junction'.*

Lack of appropriate regard for Old Oswestry's significance

- *The large scale of the development (including 83 houses, drives, roads, substation, pumping station) constitutes a substantial change to the near setting of a scheduled monument of high national significance. This*

conflicts with the S14 requirement that: 'Development should demonstrate appropriate regard to the significance and setting of the Old Oswestry Hill Fort.'

- *In its Statement of Significance for Old Oswestry (within the SoCG), Historic England stated: 'The setting of the Hillfort is essentially rural with prominent views to the east, west and north which are not appreciably affected by modern development. Maintaining this rural setting is important in allowing the significance of the site to be better understood.' The masterplanning, housing grid, design and density remain wholly inappropriate; they do not enable the rural setting to be maintained nor the significance of the site to be better understood. The protection of setting to a site of such national archaeological importance should be afforded the greatest weight. Old Oswestry is regarded as a unique type site for the understanding of the Iron Age, equating to the same significance that Stonehenge and its landscape have for the Neolithic period. This high status is evidenced by reference to it among archaeology academics as 'The Stonehenge of the Iron Age'. Expert testimony of Old Oswestry's importance is also provided in an open letter signed by 12 leading academics of British archaeology (see Appendix item 1).*

Disruption of views

- *The masterplan layout continues to form significant obstruction to views of the hillfort from Whittington Road and within the site. As well as extending significantly beyond Historic England's northern limit for development within OSW004, the density and height of the built form as well as tree levels to mitigate development detract wholly and substantially from the setting of the hillfort and views to and from the hillfort. This fails to satisfy the SoCG requirement that 'Disruption of views to and from the Hillfort should be minimised as they contribute to its aesthetic value.' It also does not meet the policy S14.1a requirement that master planning should ensure that 'long distance views to and from the Hillfort within its wider setting are conserved'. The built form and tree scheme will screen a large percentage of views of the hillfort currently available from Whittington Road (B4580).*
- *The proposal provides for an 'Observation point equipped with benches and interpretation boards at the end of the tree-lined pedestrian avenue, to enable greater appreciation of the Hillfort.' This observation point occupies one of the lowest-lying parts of the site, so would compound the barrier to views from existing trees and the Oldport farm buildings alongside Gobowen Road. It would also create the risk of extra traffic entering the site, with attendant parking and safety problems, due to visitors potentially accessing it for views of the hillfort. There is also the added concern they may expect to gain access to the hillfort from the estate, leading to potential trespass and safety issues if they should attempt to cross a 'live' railway line and reach the hazardous Gobowen Road. 'Greater appreciation' of the hillfort would be categorically better served by preserving its existing setting*

and the precious separation that remains between Old Oswestry and the town.

Overwhelming public opposition to loss of a valued landscape

- *Since 2012, there has been considerable and long standing opposition from the public and key stakeholders/consultees to development on OSW004, including 12,000+ petition signatures. This is compelling evidence that the greater public benefit comes from the conservation of what is a landscape of high value to the community, not from housing that damages the hillfort's setting and significance and can be accommodated elsewhere. Old Oswestry hillfort and its landscape are much loved and appreciated as an asset of high community and cultural value. This is because of its national heritage and archaeological importance, recreational amenity, environmental beauty, and sense of escape enhanced by 360 degrees views and rural context. A notable aspect of Old Oswestry's cultural and community value is the intrinsic role which the earthwork and its eastern landscape played during WW1. The plateau housed practice trenches, serving as the extended training ground for troops based at the adjacent Park Hall camp. This poignant association was marked when the hillfort was chosen for the staging of the WW1 Centenary Beacon Lighting on 11 November 2018 for Oswestry and nearby communities. The experience of all these cultural and heritage values relies on preserving the hillfort's fragile separation from the town, with no further urban encroachment into its setting.*

Inadequate assessment of heritage impacts

- *In the heritage statement, the applicant does not fairly or proportionately account for the very high national significance of Old Oswestry – heritage significance compounded by the co-located scheduled sections of Wat's Dyke. They also under-assess the contribution of setting to this significance. This has resulted in the following: -An underestimation of the degree of harm from the OSW004 development on the hillfort's setting and on its significance. The documents assess that only 'some' harm will be caused, including harming 11% of views to/from the hillfort – this is 'substantial' given the hillfort's national significance while representing only part of the harm/impacts. In fact, the development would affect viewpoints from the hillfort spanning 180 degrees around the plateau, effectively 50% of views. -The masterplan and proposed development do not secure 'appropriate integration of development within the sensitive historic landscape', contrary to the S14 policy.*
- *The photomontage of the view from the hillfort (see below) clearly shows that the overriding and catastrophic visual impact of the proposed housing estate will be to fuse with, and magnify, the overall dominance in the view of housing and urbanisation lying beyond the B4580 Whittington Road, connecting it right through to the Oldport Farm infrastructure. The existing open fields of OSW004 and clear line provided by the Whittington Road are crucial in keeping the urban mass in visual abeyance. But the proposed*

development, tapering towards the hillfort, will cause the eye to read the town right through to the farm edge lying just 80m or so from the hillfort base.

- *This green separation is an important function of the setting in terms of the hillfort's landscape presence and appreciation, as referenced in the SoCG in which Historic England says: 'The urban area does not, apart from near Jasmine Gardens, extend northwards from the town onto higher ground in the view of the Hillfort, which enables a separateness to be maintained between them.' The development constitutes a significant incursion into the hillfort's south-eastern setting, as well as its open aspect and separation from the town, all of which make an important contribution to Old Oswestry's landscape presence and significance as a high order national heritage asset.*

Conflicts with other local planning policy and updated assessments

- *Fields shared with OSW004 and others located across the hillfort's west/east landscape have been excluded from allocation for housing development by Shropshire Council until at least 2036 in the local plan review, due to their heritage importance as part of the hillfort's setting (see email from May 2019 following HOOOH meeting with Shropshire Council, Appendix item 2). OSW004 would also meet these criteria if it had not been allocated back in 2015. This makes the site unsustainable in relation to updated strategic planning and landscape assessments that are steering development away from the hillfort and to the east of the A5 bypass.*
- *The design fails to comply with Oswestry's 2020 plan, since it does not provide an attractive gateway to the town along Whittington Road. Instead, first impressions will be dominated by a modern housing estate, like many other towns, rather than open views to the unique spectacle of one of Britain's finest hillforts and the town's most distinctive asset and outstanding landmark.*
- *The viability and sustainability of development at OSW004 is dependent on the delivery of major highways infrastructure changes at regional level to the A5 bypass, for which there are no start dates and may be years away.*
- *Shropshire Council's updated Landscape and Visual Sensitivity assessment for northern Oswestry (2018) attaches high value to the area which includes the hillfort, its surrounding landscape and south-eastern setting across to the bypass. It states: 'Any development within this landscape would be highly noticeable within the view and could result in the degradation of the setting of heritage assets...' and 'overall the sensitivity of the landscape to change as a result of development for housing is high...' OSW004 would unavoidably form part of the view and impressions of the landscape assessment, especially when OSW004 truncates the established boundaries of two fields.*
- *In its 'Site Assessments: Oswestry Place Plan Area (SAOPPA) November 2018', Shropshire Council rejected the land parcel (OSW058) bordering OSW004 as a preferred site for housing allocation within its Local Plan*

Review to 2038. The reason given was: 'Development would have an unacceptable impact on the setting of the Hillfort and other heritage assets.' This updated assessment can be materially argued for OSW004; the spatial relationship of both OSW004 and OSW058 with the hillfort are very similar, in terms of distance, size, visibility within its setting, and the comparative impacts on the significance of the monument if they were built on. During SAMDev, the OSW004 allocation originally included land at OSW058, meaning that if the heritage sensitivity of the 2018 assessment had been applied then, the OSW004 allocation would have been ruled out even before 'preferred options stage'. This reveals a serious disparity between old and new assessments underpinning strategic planning in Shropshire for the setting of a nationally significant monument, and an inconsistency adding weight not to approve development on OSW004.

- *Housing delivery on the Oswestry Eastern SUE has been serially postponed, reduced and a proportion of delivery has now been extended beyond the SAMDev period of 2026 leveraged through the current local plan review to 2036. This sets a precedent for housing delivery from a site outlined in SAMDev to be amended with reference to the local plan review and for a downward revision or postponement of housing delivery.*

Unsustainable due to loss of agricultural land and traffic issues

- *Development would use high quality Grade 2 & Grade 3a soils (as per Agricultural Land Classification England) which are regarded as 'best and most versatile' agricultural land and soils. This is not sustainable under government policy promoting local and national food supply security, and when alternative housing land is available elsewhere.*
- *Incorporating some 200 car spaces, the development will add to existing congestion (and pedestrian safety) issues along Whittington Road (B4580) and at its junction with the Gobowen Road (B5069) for which there is no apparent mitigation. Professional assessments of traffic volumes (submitted with previous planning application) at the B4580/B5069 junction show them to be very close to exceeding acceptable levels, even before the OSW004 development.*
- *The access/exit road to the development would emerge onto Whittington Road at a point just 50 metres from the Harlech Road junction on the opposite side, creating further safety issues for vehicle users and pedestrians.*

Benefits of 'no development' outweigh developing OSW004

- *The benefits of no development on this site far outweigh the claimed benefits. First and foremost, no development would ensure that we conserve the landscape setting integral to one of England's best-preserved Iron Age hillforts and most important archaeological monuments with no further loss from urbanisation. No development maximises the potential to advance our account of British prehistory through a hillfort and landscape considered to be as important to the understanding of Iron Age society as Stonehenge is for the Neolithic period. No change would meet the strongly*

stated view of the local community to conserve not build, especially when houses can be accommodated on sites elsewhere. No development would preserve the heritage tourism and associated economic potential of Old Oswestry in line with current local initiatives and county policy objectives (see points 46-48). With major community support for the sensitive conservation of Old Oswestry's unique attributes and national importance, its surrounding hinterland landscape should be appropriately protected as the hub of the town's northern historic landscape - the Oswestry Heritage Gateway (see Appendix item 3).

Not reflective of latest housing data/position

- *The claim that housing on OSW004 is essential to meeting housing targets. However, we know from the current local plan review to 2038 that the town's housing targets have been heavily reduced – hence the proposal for 229 dwellings including just 2 new site allocations to meet the recalculated housing need to 2038, even though many new sites came forward for consideration and Shropshire Council is now pursuing housing delivery east of the A5 bypass. The Council has also relaxed the delivery schedule from the Oswestry Eastern Sustainable Urban Extension (SUE) so that it goes beyond the current plan period of 2026 – another signal that the town's annual housing delivery targets have been unrealistic and are being watered down in the current review which will supersede the SAMDev delivery period and recalibrate targets to 2038.*
- *Over the past 2 years or so, there has been a healthy number of housing completions as well as new planning applications/approvals for dwellings in Oswestry, including the greenlight for 600 houses on the SUE and progress with a separate application for 150 homes also on the SUE. It is very possible that the current and prospective level of builds will easily meet Oswestry's housing targets, without developing OSW004, during the current overlap with the revised local plan period.*
- *Oswestry has alternative land coming forward that removes the imperative to build at OSW004. As a result of the local plan review, additional land has been identified for housing east of the bypass at Park Hall, keeping town growth away from the hillfort. Also, a grant supported project aims to release land for over 1,150 new homes in Oswestry over the next 10 years, including previously unviable greenfield (see government report: <https://www.local.gov.uk/development-oswestry-growth-corridor>). This report also mentions about Oswestry that: 'The lower land values have encouraged a much greater proportion of affordable housing completions in the town, 96 affordable dwellings in 2017/18, on sites allocated for open market housing.' While this data suggests affordable homes delivery is healthy, the argument to build at OSW004 claims that Oswestry is in great need of affordable housing (although the applicant in fact would only be delivering 10% affordable homes within the scheme).*
- *It is noted that while this is a single application, it is likely to be delivered in two phases. Future housing targets for Oswestry are being scaled back in*

the Local Plan review, and we are experiencing an extended period of economic upheaval as well as uncertainty over housing delivery with the impacts of COVID-19, Brexit and cost of living crisis. This may pose a risk of delay to the implementation of Phase 1 and an even greater risk to Phase 2. If Phase 2 was not completed for considerable time, or at all, then the current unfinished edge of Phase 1 would achieve none of the required landscape buffer and hillfort viewing points etc of the S14 policy masterplan. With its unfinished roads and pathways, it would create an extremely incongruous, un-designed edge that would especially spoil views from the hillfort.

- *The claim that OSW004 is only one of two greenfield sites in Oswestry suitable for development, the other being the Oswestry Sustainable Urban Extension (SUE), is not an imperative to build here. Government policy is to prioritise housing delivery on brownfield and pursue the refurbishment/regeneration of upper floors in town centre properties. There is also impetus to make available long-term unoccupied properties of which there are several hundred in Oswestry.*

Conflicts with tourism/heritage focus of county & local economic strategies

- *The town's historic northern gateway centred around Old Oswestry and Wat's Dyke is rich in multi-phase heritage spanning from Neolithic to Anglo-Saxon right through to the Victorian era and WW1/WW2 military use. Coined the Oswestry Heritage Gateway, it has been promoted and welcomed by numerous stakeholders as an appealing and impressive concept for tourism development. A conservation plan was prepared for Old Oswestry in 2010, funded by English Heritage: 'Old Oswestry is a hugely significant archaeological resource. Its importance is derived not only from its prehistoric legacy, but also from its contribution to later periods of history. Its incorporation into Wat's Dyke marks a chapter in the formation of early medieval Britain and it played an important role in the first of two world wars that so dramatically shaped the world in which we live. Old Oswestry is also important for the richness of its wildlife and is a key component in maintaining the biodiversity of the local area. The profile of our Iron Age hillforts and prehistoric landscapes has been boosted by the publication of the UK and Ireland 'Hillforts Atlas'. The recent excavation of Nesscliffe hillfort and bid to reinforce its heritage and environmental protections is a sign of the importance and value placed on Shropshire's prehistoric archaeology, Iron Age hillforts and associated landscapes. With the obvious potential and desire to make more of this very rich period within the County's heritage, it would seem essential to be conserving and highlighting Shropshire's outstanding hillfort type site, Old Oswestry. This internationally admired hillfort is so pivotal to unlocking deeper understanding of prehistoric Britain that it has been acknowledged as the 'Stonehenge of the Iron Age'. The OSW004 site is part of Oldport Farm, which effectively comprises most of the hillfort's near landscape setting and*

is listed as one of Shropshire's historic farmsteads. Preservation of the hillfort's setting also conserves the farming tradition that has been the prime activity surviving in its fields from prehistory right through to its latter-day role. The public has indicated that they strongly favour conserving the hillfort's environs in promoting the town's heritage tourism offer as the hub of the Oswestry Heritage Gateway (see Appendix item 3).

- *Current initiatives for economic regeneration in Oswestry, including the Oswestry Business Improvement District (BID) and High Street Heritage Action Zone, seek to capitalise on local heritage and environmental qualities. Objectives of the Oswestry BID include building on the town's rich heritage for tourism and developing a diverse and rewarding environment. The Oswestry Place Plan (2015-2016) states the objective "Look at opportunities to make more of the Oswestry Hill Fort". Contrary to these objectives and vision, development on OSW004 would negatively affect Old Oswestry's outstanding contribution to the town's special character and tourism potential.*
- *Development on OSW004 reduces Old Oswestry's outstanding contribution to the County's special character and tourism potential so conflicts with the following: i) Shropshire's Economic Development Strategy talks about using Shropshire's historic assets to help promote economic growth and 'nurture them to ensure they are sustained for current and future generations to enjoy'. It says: 'The attractive combination we have to offer includes the mixture of market towns and within them the retail and historic cores, cultural activities, and open spaces. Our countryside offers a diverse and widely celebrated range of landscapes and offers a rich array of historic villages and farms, country houses, ancient monuments, parks and gardens, canals, rivers and wildlife sites. Their sustainable economic future is important, not least to the many businesses which trade off this offer.' It also says: 'Shropshire is a high quality location and has a generally well performing economy. It has one of the best natural and historic environments in England...Shropshire communities enjoy an exceptional high quality of life and environment, with vibrant historic market towns, an Area of Outstanding Natural Beauty, and one of the highest concentrations of historic monuments and buildings in the country. We will use these assets to attract investment and will continue to nurture them to ensure they are sustained for current and future generations to enjoy.' (ii) Shropshire's Core Strategy also points to the 'character, quality and diversity of Shropshire's natural and historic environment' being the County's 'greatest asset'.*
- *The proposed development significantly impedes the potential to grow the substantial economic returns from the promotion of the hillfort and Oswestry's northern heritage gateway for heritage tourism. We believe that Shropshire Council should have conducted a comparative economic assessment of the potential economic benefits of this versus the proposed housing in making a fair judgement of the sustainability of development.*

(Appendix s to this letter and supporting photographs are available for inspection as part of this letter of objection, available for viewing on the Council's application website.

<https://pa.shropshire.gov.uk/onlineapplications/simpleSearchResults.do?action=firstPage>

-Typing in the application reference number 23/00225/FUL where indicated.

4.20 **The Pre-historic Society** have responded to the application indicating:

The Prehistoric Society is dedicated to furthering the understanding of our prehistoric past and conserving prehistoric remains for the future. Our members are passionately interested in many prehistoric sites, collections and excavations both in Britain and abroad.

I am writing to raise concerns regarding the current planning application noted above. The Prehistoric Society has written previously, regarding development within the setting of Old Oswestry Hillfort and I wish to confirm my own opposition.

The proposed development will impact adversely upon the setting of the scheduled monument of Old Oswestry Hillfort (NHLE 1014899). The setting is extremely important for the continued enjoyment and appreciation of the scheduled monument itself; it provides context and understanding of why the monument was constructed there, and how it dominated the landscape. Modern scale development will harm the relationship of the hillfort and its setting by introducing new elements into what remained partly open landscape under modern planning decisions.

The site was clearly selected for its topography, and the hillfort was constructed to dominate the landscape; it became the most significant element, asserting the authority of the society which constructed and used it. Any proposed development within the setting of the scheduled monument must take account of this to ensure that the visual predominance is not affected; otherwise, the understanding and appreciation of the monument within its landscape will be compromised. Furthermore, the views from the monument will be compromised by infilling currently open land and increasing the mass of development to the southeast of the monument.

The current proposals clearly impact upon the setting of the monument and will diminish the impact it makes within its landscape by restricting the ability to view it clearly. The insertion of more modern buildings will adversely affect the site by hemming it in, and the incremental development will lead to its becoming an isolated island, surrounded by modern buildings, rather than being the clear and solitary focus of authority within a

wide and open landscape. The landscape and Visual Assessment document, submitted with the planning application makes it clear that the impact upon the views from the hillfort will be significant and adverse. This would degrade the significance of the asset, contrary to all guidance on the protection and enhancement of heritage assets.

We ask you again to take into consideration a number of paragraphs within the NPPF (2021 revision), when making your judgment. Firstly, section 16, underscores that 'Heritage assets are an irreplaceable resource and should be conserved in a manner appropriate to their significance, so that they can be enjoyed for their contribution to the quality of life of existing and future generations.' Paragraph 194 stresses the contribution made by the setting of heritage assets, paragraph 195 stresses that local authorities should identify and assess the significance of the heritage asset affected by a development affecting its setting. In particular, paragraph 200 states that any harm to, or loss of, the significance of a designated asset (from its alteration or destruction or from development within its setting), should require clear and convincing justification.'

Paragraph 202 notes that where the harm is less than substantial, the harm should be weighed against the public benefit of the proposal. As the current proposals affect the setting rather than the monument itself, this can be taken to impact monument significance, as such it requires clear and convincing justification. After ten years of public opposition, this do not yet seem to be forthcoming. Therefore, I urge you to weigh very carefully the significance of the monument, glorious within its landscape, against the very limited public benefits of the proposals.

I ask you also to consider the content of the Historic England guidance on The Setting of Heritage Assets (December 2017), which outlines clearly how to assess the contribution of views to the setting and therefore significance of heritage assets. Paragraph 36 in particular refers to cumulative assessment of existing and proposed development and is of specific relevance here, particularly with reference to phase 2.

Furthermore, Historic England's Conservation Principles (April 2008) place great weight on communal value in addition to evidential value, which the hillfort contains in high degree. Communal value underlines the importance of an asset to many communities, not simply the local community, but all interested parties. Old Oswestry Hillfort is more than simply a local asset, it is nationally significant and of importance and value to all those interested in Prehistory globally.

I ask you also to consider all local policies regarding the treatment and protection of heritage. Shropshire's Cultural Strategy 2021-31 underscores

the importance of your heritage assets and indeed the significant financial accrual from visitors. Development within the setting of the hillfort may ultimately make it less attractive to visitors. Development like this rarely enhances heritage.

Policy MD13 of the SAMDev states that 'wherever possible, proposals avoid harm or loss of significance to designated or non-designated heritage assets, including their settings.' I appreciate the need to provide housing for the local community, but there are other suitable allocated sites in your area, development of which will create significantly less harm to national heritage assets.

Scheduled monuments are of exceptional significance and rarity, and one quite so complete and uncompromised as Old Oswestry, ever more so. I urge you, therefore, to consider all these points, and refuse planning permission and preserve the significance of Old Oswestry hillfort for current and future generations.

- 4.21 A letter of objection has been received from **Oswestry & Border Archaeology & History Group (OBHAG)**. The letter states:

On behalf of the Oswestry & Border History & Archaeology Group (OBHAG) I am writing to object strongly to the latest set of proposals, ref. 23/00225/FUL, submitted in relation to this important site north of Whittington Road, Oswestry.

These proposals, submitted by Cameron Homes, are very largely the same as the proposals made by Galliers Homes which were rejected by Shropshire Council in March 2022. The detailed comments made by very many people and organisations in relation to that application, 20/01033/EIA, should be revisited by the Council in considering the present application.

The deep concern, local and national, expressed over several years now, in relation to development on this site, and the significant impact that development would have on the setting of Old Oswestry hillfort, should be borne in mind by the Council when they determine the present application. A decision which disregards the significance of the proposals to the hillfort would reflect very poorly on Shropshire Council's stewardship of its historic landscape.

The development proposed in these new plans, like its predecessors, would, if allowed, be to the great detriment of the hillfort and its setting. Councillors need to appreciate, and understand, the national significance of Old Oswestry hillfort and its setting, at what is effectively the gateway to Shropshire from north east Wales and to bear in mind the damage that development here will have.

The proposed development if allowed would result in substantial harm to the significance and setting of Old Oswestry hill fort, a scheduled ancient monument

of national significance. Arguments set out in these proposals that the harm done would be less than substantial are unconvincing. Shropshire Council - members of the planning committee, and planning officers - need to appreciate, to realise, that Old Oswestry hillfort is truly of national significance, and that, as such, it merits greater respect, closer attention and scrutiny, than has been afforded by the present proposals, and by their predecessors, and by public decision makers. And the Council needs to appreciate that the impact of a site such as Old Oswestry on those approaching Oswestry from the east, from the A5 by-pass or from Whittington Road, depends to a significant extent upon the setting, upon the fields in which the hillfort is set. Build on those fields - build 83 houses within that setting - and the impact is diminished. And if these 83 houses were allowed, further proposals would surely follow.

These proposals fail to reflect the northern limit for new buildings previously agreed between Shropshire Council and Historic England. I understand that the proposals significantly exceed this building line, with around half of the dwellings either wholly or partly breaching it.

The present proposals also fail to address the significant highways issues that would be posed should the development be allowed to proceed. The addition of 83 houses, with, in total 239 bedrooms, on a site close to the A5 trunk road and some distance from shops, services, etc. would result in a significant increase of traffic onto Whittington Road, and onto the busy roundabout at the junction of the A5 with the A495 and B4580 (Whittington Road). The assessments made for the amount of additional traffic movements likely to result from the present proposal appear wholly unrealistic, much too small. Many, quite possibly the majority of the 83 houses will have 2 or more cars, many of which will be used on a daily basis, and at peak times, causing congestion, and risking accidents, along Whittington Road and at the A5 roundabout.

The proposals also present a rose-tinted view of the proximity of local facilities. Whilst tabulations show that shops and other local facilities lie between 850m and 1.5km from the development site, the commentary describes an "excellent range of facilities within walking distance". The reality is that the development is, as Oswestry Town Council has pointed out, isolated and lacking in facilities nearby. It is fully 2km from the town centre, peripheral to the town; it is a development that runs entirely counter to the stated desire of Shropshire Council and decision makers local to Oswestry to strengthen Oswestry town centre, its shops and its facilities for the future. And, given that many visitors to Oswestry from the north and east - from the A5 and A495 - approach Oswestry via Whittington Road, to have that route dominated by modern housing will not provide any sort of attractive approach, unlike (as now) providing views from Whittington Road towards the hillfort.

The evidence appears clear. Harm will be caused to the setting of the hill fort - this

is acknowledged in the Heritage Impact Assessment. Planning policy makes clear that harm should be avoided. The present proposals, like those put forward previously, seek to suggest that the harm is only minor and won't really make any difference. It will. If the development is allowed, there is no doubt that substantial harm will be done - and there is no need for this; the development should be refused.

Likewise, the proposed development is in the wrong place, isolated from local shops and facilities. If allowed, it will present significant risk to road safety, and increase congestion and air pollution. Again, it should be refused.

4.22 **Historic Buildings and Places** have responded indicating:

Statutory Remit: *Historic Buildings & Places (HB&P) is the working name of the Ancient Monuments Society, a registered charity in England and Wales (no. 209605). We are a consultee on all Listed Building Consent applications involving an element of demolition, as required by the Arrangements for handling heritage applications – notification to Historic England and National Amenity Societies and the Secretary of State (England) Direction 2021. We are concerned with historic assets of all types and all ages, including conservation areas and undesignated heritage.*

Comments: *Thank you for consulting Historic Buildings & Places on this application. We have viewed the documents available online and **object** to the construction of 83 dwellings near Old Oswestry Hillfort, a scheduled ancient monument. HB&P objected to the previous scheme (20/01033/EIA) and we find the current scheme has little changed and not addressed any of our concerns relating to the setting of the Hillfort.*

The significance of the Hillfort is clearly outlined in the extensive and detailed list entry for this important site by Historic England. Significance derives not only from a heritage asset's physical presence, but also from its setting. The development site would fill in a large area of open rural land which forms an important part of the open setting around the base of this highly significant scheduled ancient monument. It forms part of an important final buffer between the hillfort and the urban edge of Oswestry, and this must be preserved.

We disagree that this development would have a minimal visual impact and that, for example, the hedgerows along the north side of Whittington Road would sufficiently screen and mitigate these impacts or preserve the rural character around the hillfort. The views from the hillfort itself look directly across the site. Urban development to the south of the site has already affected the wider setting and the cumulative impact of this additional development will further erode its open rural buffer and cause a considerable degree of harm to its significance and setting.

We remind your Authority of the relevant NPPF (2021) considerations:

- Paragraph 195: “Local planning authorities should identify and assess the particular significance of any heritage asset that may be affected by a proposal (including by development affecting the setting of a heritage asset) taking account of the available evidence and any necessary expertise. They should take this into account when considering the impact of a proposal on a heritage asset, to avoid or minimise any conflict between the heritage asset’s conservation and any aspect of the proposal”.
- Paragraph 199: “When considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset’s conservation”.
- Paragraph 200: “Any harm to, or loss of, the significance of a designated heritage asset (from its alteration or destruction, or from development within its setting), should require clear and convincing justification.”

4.23 **Cambrian Heritage Railways Ltd.** have responded to the application indicating:

I write on behalf of Cambrian Heritage Railways Ltd. (CHR) to object to planning application ref. 23/00225/FUL | Proposed residential development of 83 dwellings on a site which adjoins CHR railway.

CHR currently operates heritage trains as a visitor attraction on two lengths of railway, from Oswestry southwards to Weston, and from Llynclys to Pant. There are options for extension of the heritage services to link the two separate lengths. Plans are also progressing for a community rail service between Oswestry and Gobowen, initially to the Orthopaedic Hospital, later extended to Oswestry. This service will provide cross-platform interchange at Gobowen with trains from Birmingham/Cardiff/Shrewsbury to Chester/Holyhead and would use lightweight railcars similar to those now operating on Network Rail tracks between Stourbridge Junction and Stourbridge Town. In addition CHR continues to explore options with a view to recommencing rail freight transport of stone or other commodities from/to Llynclys and Llanddu Quarry via the Gobowen main line connection to the national rail network.

CHR's specific objections are:

1. The applicant's previous applications have included development of a foot path connection were there is currently an 'Accommodation Crossing' of the railway. These are an agricultural only easement crossing, this arrangement will cease upon the sale of the land and for the avoidance of doubt CHR will close and remove this crossing at that time.

Planning guidance S14 requires a pedestrian link between Whittington Road and Gobowen road. The application fails to address S14. Further new public crossings are currently prejudiced against by Office of Rail & Road policy and the applicant has failed to engage with CHR in relation to developing any application for a

crossing or negotiation for design/construction/maintenance of a pedestrian underpass.

2. It is noted that no houses are proposed immediately next to the railway, which is sensible but this has resulted in green spaces alongside an operational railway.

Given point 1 above, with no exit/entrance from this part of the site to Gobowen Road the development appears to have created an increased risk of trespass to the railway.

The plans fail to address any enhanced fencing or separation between the green spaces and the operational railway to mitigate the trespass risk this development creates.

3. Throughout the applicants documents they have referred to the railway as 'disused' or as a 'former railway'. The existence of statutory powers held by CHR (<http://www.legislation.gov.uk/ukxi/2017/370/made>) make this an operational railway.

Therefore the applicants documents have incorrectly assessed the impact, both positive and negatively from the railway.

Future residents will be subject to the noise of an operational railway, vibration or disturbance. Should any complaints arise in future, it should be noted that the 2017 Order gives CHR broad scope to operate trains and maintain the railway; while reasonable steps would be taken to minimize disturbance in keeping with national rail policies

4. The Transport Assessment assumes the private car will be the main mode of transport, with no proposals to enhance public transport (the bus service is non-existent at evenings and on Sundays) or enlarge the inadequate parking space at Gobowen Station. We urge that support is given to the opportunity presented by the future CHR light rail service, which has the potential to reduce car usage locally and CO2 emissions.

4.24 **The Council for British Archaeology** has responded indicating:

Thank you for notifying The Council for British Archaeology (CBA) about the above case. Based on the information supplied with this application, we offer the following observations and advice to assist your authority in determining the application.

Summary

The CBA strongly object to this application, which exceeds the northern development limit for OSW004 set out in the SoCG (2014). The harm this application would cause to a scheduled monument of the highest national significance is contrary to the requirements of NPPF paragraphs

199 and 200 as well as the heritage led guidance for development of this site. The strength of local attachment to Old Oswestry Hillfort, which defines the town's identity, cannot be ignored in determining this application. Strident public objection to housing development in this location, sustained over the last decade, should see this site allocation reassessed and excluded from future development site allocations in Shropshire's Local Plan.

Significance

The significance of Old Oswestry Hillfort has been ably articulated in several documents including Historic England's Scheduling description and Reasons for Designation. It also features in a variety of academic research that sets out to examine the relationship between various prehistoric monuments and landscapes within Wales and the Welsh Marches. The hillfort is one of several highly visible and significant prehistoric monuments in the region and is a particularly well preserved example. Wat's Dyke, constructed in the early medieval period, is frontier bank and ditch as well as a statement of political control. As such it deliberately included the earlier hillfort in its alignment at this location. These monuments are dominating features in the landscape that are highly regarded by the local community and therefore retain high communal value. The setting of these monuments is key to appreciating and understanding them and any encroachment into setting by development will inevitably be harmful. Despite its proximity to the urban fringe of Oswestry, the hillfort retains a strong open and rural setting that make a critical contribution to the setting and significance of the monument.

Comments

The CBA are disappointed to see the continuing pursuit of development in this highly contentious parcel of land just c.300 meters from one of the largest and most impressive hillforts in England. The CBA maintain our previously stated strong objection, and our support of the groundswell of local objection, to development in this location. The opposition to development in this location from 12,000 people (petition signatories), Oswestry Town Council and local MP, Helen Morgan must receive due consideration in determining this application.

In 2015 when examining the draft local plan a planning inspector judged that development in this location would amount to 'less than substantial harm' to the significance of Old Oswestry Hillfort, in NPPF terminology. To note, 'substantial harm' is an extremely high bar amounting to total loss or demolition. Less harm than total loss should not be excepted lightly. The NPPF requires any harm to heritage assets to be minimised, justified and mitigated against. NPPF paragraph 199 is pertinent in stating "When considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset's conservation (and the more important the asset, the greater the weight should be). This is irrespective of whether any potential harm amounts to substantial harm, total loss or less than substantial harm to its

significance.” The scheduled hillfort is a heritage asset of the highest national significance. The CBA believe there is a fundamental issue with the Site Allocations and Management of Development (SAMDev) component of Shropshire’s Local Plan (December 2015) that allocated site OSW004 for housing. It inherently contradicts Policy MD13: The Historic Environment of SAMDev that states “Shropshire’s heritage assets will be protected, conserved, sympathetically enhanced and restored by ensuring that where ever possible proposals avoid harm or loss of significance to designated or non-designated heritage assets, including their settings and that ensuring 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.”⁹⁴

A Statement of Common Ground (SoCG) between Historic England and Shropshire Council, prepared prior to the examination of the SAMDev Plan identifies the long running contentious nature of site OSW004. The SoCG identifies the settings of the Hillfort and two adjoining sections of dyke as predominantly rural. This rural character setting is recognised as an important contributor to their significance. Importantly, the SoCG established a position of compromise in drawing a northern development limit within OSW004, which any development should not exceed. Approximately 50% of the proposed dwellings are beyond this line. The current proposals replicate the site layout of application 20/01033/EIA (refused), which the CBA also objected to. There is no ‘clear and convincing justification’ (NPPF, paragraph 200) for disregarding the stipulations of SoCG, to minimise harm to the setting of the scheduled hillfort, by exceeding this boundary line. On these grounds alone the CBA recommend to current application should be

refused. The CBA further recommend that the allocation of OSW004 for housing needs reassessing to give due credence to the strength of local objection, as well as the irreversible harm that development of this site would cause to the setting of the hillfort. Current changes to planning legislation, national policy and local housing delivery numbers means that the planning landscape in which Shropshire set out its land allocations for housing development in 2015 has considerably shifted.

The increased flexibility in delivering housing numbers and the new emphasis on neighbourhood input to planning on their doorstep should see any prospect of developing OSW004 abandoned. The CBA note that there are less contentious allocation sites elsewhere around Oswestry, including brownfield sites, which would not harm nationally significant and locally cherished prehistoric monuments. Housing development should preferentially be delivered on these alternative allocated sites.

Recommendations

It is understood that the Inspector’s considerations and conclusions regarding site OSW004 remain a significant material planning consideration when determining the current planning application. However, SoCG, which formed part of the inspector’s reasoning in balancing harm against housing

delivery identified a northern development limit within the site. This identified development limit within OSW004 sought to minimise harm to the scheduled hillfort. The current application disregards this key component of the inspector's considerations. Contrary to the requirements of NPPF paragraph 200, there is no justification presented for exceeding this minimised level of harm. It should therefore be refused on the grounds of exceeding this development line. There are other site allocations locally where housing could be delivered without harming the setting of such a nationally significant landmark. These include brownfield sites that would better accommodate 'active transport' and not rely on cars, adding to existing congestion issues, which would clearly be more sustainable options.

'Public benefit' is a golden thread that runs through planning policy. In order for your LPA to disregard the strength of public objection to this development you should be satisfied that the public benefit exceeds the harm caused to the hillfort's setting whilst giving 'great weight' to the significance of this heritage asset of the highest national importance. The vociferous public objection to development in this location is remarkable and must be given due credence in the planning balance. 12,000 local objections alongside objections from Oswestry Town Council and their local MP clarifies a definite lack of perceived public benefit from developing OSW004.

The Levelling UP and Regeneration Bill, which is progressing through parliament, as well as draft secondary planning legislation places increased emphasis on public consultation and community voices in directing future development in 'their place'. The planning backdrop to the inspector's acceptance of OSW004 for development in 2015 has changed. OSW004 has been contentious since its inception. The CBA therefore strongly recommend that this site should be excluded from future Local Plans.

Old Oswestry Hillfort is essentially what puts Oswestry on the map. It is a lynchpin of local place identity that stretches back to the iron age. Rather than SAMDev 2015, the salient consideration for this location is paragraph 189 of the NPPF "Heritage assets range from sites and buildings of local historic value to those of the highest significance, such as World Heritage Sites which are internationally recognised to be of Outstanding Universal Value. These assets are an irreplaceable resource, and should be conserved in a manner appropriate to their significance, so that they can be enjoyed for their contribution to the quality of life of existing and future generations."

I trust these comments are useful to you; please keep the CBA informed of any developments with this case.

4.25 **The Civic Society** has responded to the application indicating:

The Oswestry and District Civic Society strongly objects to the above planning application, for the following key reasons:

1. No consideration has been given to the cumulative effects of the proposals, that is, how the altered landscape will add to previous harm resulting from the erosion

of the hillfort setting from northwards creep of the town. The Coppy was previously treated in planning terms as a natural screen for earlier housing development. The proposal to develop beyond The Coppy would set a worrying new precedent for future proposals.

2. The proposed development would be contrary to National Planning Policy Framework (NPPF) s.174, as it would adversely affect a valued and historically important landscape, one that provides a visual link between the scheduled monuments of Old Oswestry hillfort and Wat's Dyke with Oldport, Park Hall, and Whittington, and the ancient road connecting them. The existing rural landscape enables the appreciation of the hillfort's wider heritage connections through its setting. This would be radically and adversely changed by the proposed development, which would create an urban suburb devoid of historical resonance, and which would undermine contextual appreciation of the historical landscape.

3. The proposed development would be contrary to NPPF s.199, as it would expand the town into a crucial area of Old Oswestry hillfort's setting, visually triggering the start of enclosure of the hillfort in its south-eastern landscape, and thus fails to take proper account of the significance of Old Oswestry hillfort as a designated heritage asset, nor give sufficient weight to the asset's conservation.

4. The proposed development would be contrary to NPPF s.200, as the application does not provide clear and convincing justification for significant damage to a designated heritage asset. The proposal would cause harm to the heritage significance of the scheduled monument Old Oswestry hillfort through urban encroachment and destruction of a key part of its historical and landscape setting. It cannot be demonstrated that the harm/loss is necessary when more than

sufficient land has been identified for housing development elsewhere in and around Oswestry.

5. The proposed development would be contrary to NPPF s.206, as it would permanently undermine existing views of the hillfort from the B4580 Whittington Road, which allow the monument to be appreciated and experienced in its landscape.

6. The proposed development would be contrary to the Site Allocations and Management of Development (SAMDev) Plan 2006-2026, s.14, and the underpinning Statement of Common Ground (SoCG) 2014 agreed between Shropshire Council and Historic England, as it would:

- Exceed the northern limit for development*
- Fail the obligation to demonstrate appropriate regard to the significance and setting of the hillfort*
- Fail the obligation to meet the requirements to provide pedestrian and cycle path links to the former railway and a new footpath link between Whittington Road and Gobowen Road, to improve access towards the hillfort*
- Fail to the obligation to improve the junction of the Whittington and Gobowen roads. The hillfort is of national and international importance in both heritage and archaeological terms, and local and regional importance in recreational and*

cultural terms. These amenities are all enhanced by the rural context of the hillfort, and the 360 degree views available from this. The hillfort's separation from the town must be preserved by the prevention of further urban encroachment into its setting.

4.26 **Rescue - The British Archaeological Trust** have responded indicating:

RESCUE, The British Archaeological Trust wishes to register its objection to this planning application and to further reiterate the views expressed repeatedly by RESCUE and many others concerned about the potential denigration of this hugely important national monument by development at its base. We are very concerned by the apparent determination with which development on the OSW004 site is pursued when so many object and Oswestry's housing requirements can be met by utilizing other sites.

We and many others have objected to this development allocation throughout the planning process and our views on the suitability of this site for any development have not changed. But to reiterate, Old Oswestry Hill-Fort is one of the best preserved hill-forts in the country and a Scheduled Ancient Monument. Under the provisions of the Ancient Monuments and Archaeological Areas Act 1979, Scheduled Monuments are protected from destruction or disturbance and this includes the impact on the setting of the Monument by development. Setting is a material consideration in the planning process and extends well beyond just the curtilage of the site. The setting of hillforts is a fundamental part of their importance as they were originally designed with the surrounding open space as an integral and indispensable part of the layout. The current proposals would have a seriously adverse impact on the landscape setting of the hillfort and conflicts with the protection afforded to the monument by the 1979 Ancient Monuments and Archaeological Areas and Monuments Act. It also contravenes the UK's commitments to the protection of the historic environment set out within the Valletta Convention (1992).

The proposed development area is clearly visible from the south-eastern side of the hillfort and the visibly intrusive loss of this open space would significantly compromise its historic and scenic value. The certain impact of allowing the development to proceed, which would result in a harder edge to modern built development, would damage the visual magnificence and special character of one of this country's most important prehistoric strongholds. Any incursion into this setting space would be catastrophic for the archaeological integrity of the monument. The outlook from the hillfort would have been of significance to the hillfort builders and occupiers and would have certainly influenced its siting. It is critical to the understanding of the monument that its surrounding open spaces and these views are preserved without interruption and that visitors get the chance to experience them. Any loss of this would dilute the visitor experience and, potentially, impact on visitor numbers. Old Oswestry is an important contributor to the tourism income of this area and the economic benefits to the local economy of Old Oswestry should not be compromised by ill-considered development.

Planning decisions should be guided by the National Planning Policy Framework NPPF, 2021 revision) of which para. 194 says::

"Any harm to, or loss of, the significance of a designated heritage asset (from its alteration or destruction, or from development within its setting), should require clear and convincing justification. Substantial harm to or loss of.....b) assets of the highest significance, notably scheduled monuments,..... should be wholly exceptional."

There is therefore no justification for approving this planning application.

The nation's most important archaeological sites are a wonderful legacy from the past that should be cherished and protected not built on. RESCUE therefore maintains its strong objection to any development in this area (and indeed that this area should be included as a potential development area at all)

5.0 THE MAIN ISSUES

- Principle of development
- Impact on the historic setting associated with the Old Oswestry Hill Fort
- Siting, scale and design.
- Visual impact, landscaping and provision of open space.
- Public highway access and transportation
- Drainage
- Ecology
- Residential amenity
- Affordable Housing.

6.0 OFFICER APPRAISAL

6.1 Principle of development

6.1.1 Under section 38(6) of the Planning and Compulsory Purchase Act 2004, all planning applications must be determined in accordance with the adopted development plan unless material considerations indicate otherwise. Proposed development that accords with an up-to-date Local Plan should be approved, and proposed development that conflicts should be refused, unless other material considerations indicate otherwise. The development plan in Shropshire consists of the Core Strategy (adopted in February 2011), and the Site Allocations and Management of Development (SAMDev) Plan (adopted in December 2015). While planning applications are considered against the policies of the development plan as a whole, specifically relevant policies to this application are set out further below.

6.1.2 Core Strategy Policy CS3: The market towns and other key centres indicates that housing development will be of an appropriate scale and design that respects each town's character and will take place within the town's boundaries and on sites allocated for development. Oswestry will provide a focus for major development

6.1.3 Core Strategy Policy CS6: Sustainable design and development principles states that to create sustainable places, development will be designed to a high quality using sustainable design principles, to achieve an inclusive and accessible

environment which respects and enhances local distinctiveness and which mitigates and adapts to climate change. It further states that all development will protect, restore, conserve and enhance the natural, built and historic environment and is appropriate in scale, density, pattern and design taking into account the local context and character, and those features which contribute to local character, having regard to national and local design guidance.

- 6.1.4 Policy MD2 of the SAMDev on Sustainable Design indicates for development proposals to be considered acceptable development must respond positively to local design aspirations and contribute to and respect local distinctive or valued character.
- 6.1.5 Policy MD3: Delivery of Housing Development indicates support for allocated housing sites and makes reference to the settlement policies. In the case of this application it is Policy S14: Oswestry – this policy indicates the application site as an allocated housing site reference OSW004 for provision of 117 dwellings indicating development subject to the access, layout and landscaping of the site, securing high quality design and appropriate integration of development within the sensitive historic landscape and that development should demonstrate appropriate regard to the significance and setting of the Old Oswestry Hill Fort. It is considered the applicants site layout plan and detail in support of the application addresses issues on site as referred to in Policy S14.1a in the SAMDev with reference to a master plan. (Detail in relation to pedestrian and cycle path links along with public highway issues covered later in this report).
- 6.1.6 Policy MD13: The Historic Environment in the SAMDev states that Shropshire’s heritage assets will be protected, conserved, sympathetically enhanced and restored by ensuring that where ever possible proposals avoid harm or loss of significance to designated or non-designated heritage assets, including their settings and that ensuring 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.
- 6.1.7 Paragraph 3.132 in support of Policy MD13 states Heritage assets are buildings, monuments, sites, places, areas or landscapes that merit consideration as part of the planning process. The term includes all designated and non-designated assets.
- 6.1.8 The National Planning Policy Framework, (NPPF) sets out the Governments planning policy, it was revised in July 2021 and is a significant material planning consideration for decision takers. Paragraph 38 of the framework says that “Local Planning Authorities should approach decisions on proposed development in a positive and creative way. They should use the full range of planning tools available, including brownfield registers and permission in principle, and work proactively with applicants to secure developments that will improve the economic, social and environmental conditions of the area.” The NPPF indicates a presumption in favour of sustainable development and that for decision taking this means approving development proposals that accord with an up-to-date development plan.

-	Land North Of Whittington Road
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- 6.1.9 The NPPF states that achieving sustainable development means that the planning system has three overarching objectives which are interdependent and need to be pursued in mutually supportive ways. These are:
- An economic objective – to help build a strong, responsive and competitive economy, by ensuring that sufficient land of the right types is available in the right places and at the right time to support growth, innovation and improved productivity; and by identifying and coordinating the provision of infrastructure.
 - A social objective – to support strong, vibrant and healthy communities, by ensuring that a sufficient number and range of homes can be provided to meet the needs of present and future generations; and by fostering a well-designed and safe built environment, with accessible services and open spaces that reflect current and future needs and support communities' health, social and cultural well-being; and
 - An environmental objective – to contribute to protecting and enhancing our natural, built and historic environment; including making effective use of land, helping to improve biodiversity, using natural resources prudently, minimising waste and pollution, and mitigating and adapting to climate change, including moving to a low carbon economy.

These objectives should be delivered through the preparation and implementation of plans and the application of the policies in the Framework; they are not criteria against which every decision can or should be judged. Planning policies and decisions should play an active role in guiding development towards sustainable solutions, but in doing so should take local circumstances into account, to reflect the character, needs and opportunities of each area.

- 6.1.10 As indicated by the Council's Conservation Manager, the principle of developing SAMDev site OSW004, specifically in relation to impacts on the significance of the Scheduled Monument Old Oswestry Hillfort, and two adjacent sections of Wat's Dyke, was considered in detail by the Planning Inspector in her Report on the Plan Examination of October 2015 at paragraphs 233 – 245 (pgs 55-59) and is available in full on the Council's website at:

<https://www.shropshire.gov.uk/media/8232/samdev-plan-inspectors-report.pdf>

The Inspector's considerations and conclusions regarding this site remain a significant material planning consideration when determining the current planning application. A summary of her findings is provided in the Conservation Managers response to the application in paragraph 4.14 above.

- 6.1.11 As required under the Framework, at paragraph 245 the Inspector undertook a balancing exercise, in which she weighed the public benefits of the proposal in relation to the various other policy considerations that applied at that time. Having done so, the Inspector concludes (ibid.) by stating that she is "... *satisfied that the public benefits of the proposal would clearly outweigh the **less than substantial harm** to Old Oswestry Hillfort heritage asset and any other harm that might arise.*"

It is important to recognise that the Inspector's finding of less than substantial

harm to the significance of the Hillfort, in relation to her assessment of the impacts the development of OSW004 would have, aligns with the distinction between of substantial and less than substantial harm that has been established through case law. In this respect, the law remains the position established by Mr Justice Jay in Bedford Borough Council vs SSCLG and Nuon UK Ltd [2013] EWHC 2847, in which he observed that (at para 25): -

“...in the context of physical harm, [substantial harm] would apply in the case of demolition or destruction, being a case of total loss. It would also apply to a case of serious damage to the structure of the building. In the context of non-physical or indirect harm, the yardstick was effectively the same. One was looking for an impact which would have such a serious impact on the significance of the asset that its significance was either vitiated altogether or very much reduced.”.

Consequently, ‘substantial harm’ is established as a high test. This is emphasised in the relevant section of the National Planning Practice Guidance (NPPG), which also states that it is “...*the degree of harm to the asset’s significance rather than the scale of the development that is to be assessed.*” (Paragraph: 018 Reference ID: 18a-018-20190723).

When assessing the current planning application, and in addition to the Inspectors Report from the SAMDev examination and case law, due consideration has been given to Policies CS6, CS17, MD2, MD13 and S14.1/S14.1A of the Local Plan; the policies contained in Chapter 16 of the NPPF; the guidance contained in the NPPG; and Historic England’s Historic Environment Good Practice in Planning Advice Notes 2 (Managing Significance in Decision-Taking in the Historic Environment) and 3 (The Settings of Heritage Assets) and Advice Note 12 (Statements of Heritage Significance: Analysing Significance in Heritage Assets). The principle of this form of development is therefore considered acceptable on an allocated housing site, located alongside the built form of Oswestry. The key considerations in this case are whether the merits of the proposal in providing housing on the allocated site are acceptable in relation to the scale, detail and landscaping with particular reference to the adjacent historic landmark and its setting within the surrounding landscape. The key material considerations are considered further below.

6.2. **Historic environment and impact**

6.2.1 Section 16: Conserving and enhancing the historic environment in the National Planning Policy Framework, (NPPF), indicates:

‘In determining applications, local planning authorities should require an applicant to describe the significance of any heritage assets affected, including any contribution made by their setting. The level of detail should be proportionate to the assets’ importance and no more than is sufficient to understand the potential impact of the proposal on their significance. As a minimum the relevant historic environment record should have been consulted and the heritage assets assessed using appropriate expertise where necessary. Where a site on which development

is proposed includes, or has the potential to include, heritage assets with archaeological interest, local planning authorities should require developers to submit an appropriate desk-based assessment and, where necessary, a field evaluation' (para 194)

Local planning authorities should identify and assess the particular significance of any heritage asset that may be affected by a proposal (including by development affecting the setting of a heritage asset) taking account of the available evidence and any necessary expertise. They should take this into account when considering the impact of a proposal on a heritage asset, to avoid or minimise any conflict between the heritage asset's conservation and any aspect of the proposal'. (para 195).

'In determining applications, local planning authorities should take account of:
a) the desirability of sustaining and enhancing the significance of heritage assets and putting them to viable uses consistent with their conservation;
b) the positive contribution that conservation of heritage assets can make to sustainable communities including their economic vitality; and
c) the desirability of new development making a positive contribution to local character and distinctiveness'.(para 197)

'When considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset's conservation (and the more important the asset, the greater the weight should be). This is irrespective of whether any potential harm amounts to substantial harm, total loss or less than substantial harm to its significance'.(para 199).

'Any harm to, or loss of, the significance of a designated heritage asset (from its alteration or destruction, or from development within its setting), should require clear and convincing justification. Substantial harm to or loss of:
a) grade II listed buildings, or grade II registered parks or gardens, should be exceptional;
b) assets of the highest significance, notably scheduled monuments, protected wreck sites, registered battlefields, grade I and II listed buildings, grade I and II* registered parks and gardens, and World Heritage Sites, should be wholly exceptional'. (para 200).*

'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'. (para 202).

'The effect of an application on the significance of a non-designated heritage asset should be taken into account in determining the application. In weighing

applications that directly or indirectly affect non-designated heritage assets, a balanced judgement will be required having regard to the scale of any harm or loss and the significance of the heritage asset'. (para 205).

'Local planning authorities should look for opportunities for new development within Conservation Areas and World Heritage Sites, and within the setting of heritage assets, to enhance or better reveal their significance. Proposals that preserve those elements of the setting that make a positive contribution to the asset (or which better reveal its significance) should be treated favourably' (para 206).

At page 71 of the Annex2: Glossary the NPPF defines the setting of a heritage asset as (pg: -

'The surroundings in which a heritage asset is experienced. Its extent is not fixed and may change as the asset and its surroundings evolve. Elements of a setting may make a positive or negative contribution to the significance of an asset, may affect the ability to appreciate that significance or may be neutral.'

- 6.2.2 The application is accompanied by an Heritage Impact Assessment and this concludes that the proposed development will cause less than substantial harm to the significance of Old Oswestry Hillfort as a consequence of the affect upon its setting.and will have little or no impact on the setting or significance of the other assets.
- 6.2.3 It is noted that as well as many letters of objections from members of the public a number of organisations such as the Pre-historic Society, British Archaeological Trust, Council for British Archaeology, Historic Buildings and Places and a campaign group set up to oppose the development known as 'HOOOH' have objected to the application on historic grounds and in particular in relation to the archaeological sensitivity of the scheduled ancient Hill Fort and its setting. Many dispute the findings of the applicants' historic environment specialists and that of the conclusions drawn by Historic England and the Council's Conservation Manager as outlined in para 4.4 and 4.14 respectively of this report.
- 6.2.4 Historic England has indicated that in NPPF terms they assess that the impact of the development within the setting of Old Oswestry Hillfort, would be to cause less than substantial harm to its significance. In coming to a decision, the Council should fully consider NPPF paragraphs 199 and 200 and apply the tests of NPPF paragraph 202..
- 6.2.5 Historic England have guidance on the setting of heritage assets namely 'The Setting of Heritage Assets - Good practice advice in planning note 3' and in relation to decision taking this sets out stages to be assessed. The proposed development site is located c.300m southeast, and within the setting, of the

Scheduled Monument of Old Oswestry hillfort, and two adjacent sections of Wat's Dyke (NHLE ref. 1014899). Their designation as such indicates the national importance that these monuments, and the National Planning Policy Framework (NPPF) therefore recognises that they are designated heritage assets with the highest level of significance. It is considered by officers that the development as proposed will cause less than substantial harm to the significance of the scheduled monument as a consequence of the effects upon its setting. As such, the decision taker is therefore directed to the tests as set out in paragraphs 195, 197, 199, 200 and 202 of the NPPF. In relation to paragraph 195 the heritage asset is of the highest significance, in relation to paragraph 197 development will cause less than substantial harm to its significance, in consideration of paragraph 199 it is considered there will be less than substantial harm but that nevertheless great weight is given to this important asset's conservation. In relation to paragraph 200 the proposal includes provision for additional landscaping which will assist in the landscape setting and development on site is of low density and located within the setting of the existing built-up environment of Oswestry and as such this also covers stages 3 and 4 of the Historic England guidance as referred to above. In relation to paragraph 201 of the NPPF it is considered this is not relevant, as development as proposed will not lead to substantial harm, or total loss of the significance of the designated heritage asset. In relation to paragraph 202 of the NPPF it is considered that the development as proposed will cause less than substantial harm to the significance of the hillfort as a Scheduled Monument. However, the development will bring public benefits through the provision of much needed housing for Oswestry on an allocated site in accordance with the local plan, in a scale design and layout considered acceptable for the location and whilst also noting that Oswestry has underdelivered in house building during the local plan period. This is considered a significant material consideration, and one which is considered to outweigh the less than substantial harm that will be caused to the designated heritage asset. It is also noted that the site is included to be 'saved' as part of the Local Plan Review.

6.2.6 The Inspector's examination of the SAMDev plan, , in relation to residential development of the site, indicated that the public benefits of the proposal would clearly outweigh the less than substantial harm to the Old Oswestry Hillfort heritage asset and any other harm that might arise. In coming to this view the Inspector took into account: The Oswestry SUE will not meet the housing requirements set out within the Core Strategy for Oswestry. Other supplementary sites are therefore required.

- There are limited greenfield housing options in Oswestry due to various physical factors.
- The site at Whittington Road is well served by the existing employment sites along Whittington Road.
- The site is well located for the town centre, where most of the essential services can be found.
- The dismantled railway forms a potential pedestrian/cycle link from the site

to the town centre.

6.2.7 Overall on all historic grounds which includes reference to the archaeological sensitivity of the Hill Fort and its setting, the conclusions reached by the Council's Conservation Manager as outlined in para 4.14 of this report in response to the application are shared by Officers. The site is allocated in the local plan for residential development having gone through extensive considerations when the site was considered at the adoption stage for allocation for housing. On balance it is considered the delivery of housing on this site can be supported subject to satisfactory scale and layout and landscape impact in relation to both the historic and archaeological features of the Hill Fort site and its setting.

As such in-line with paragraphs 195, 197, 199, 200 and 202 of the NPPF whilst acknowledging the significance of the Hill fort as a designated heritage asset (scheduled ancient monument), it is considered impacts upon it, as a consequence of the effects upon its setting, will cause 'less than substantial harm' to its significance. Great weight has been given to its conservation as required by the relevant NPPF paragraphs and in particular paragraph 199. As recognised by the Inspector at the allocation stage, the proposed development offers considerable public benefit in that it provides much-needed new housing, including some affordable accommodation. It would also provide a new viewing area that would enhance the experience of Old Oswestry Hillfort over that which is offered when viewed through breaks in the hedges on the moderately busy Whittington Road and the B5069. Further, it is considered that the requirements as set out in Policy MD13 and the development guidelines as set out in Policy S14.1/S14.1A of the Local Plan are met subject to conditions in relation to external construction materials, landscaping, external lighting and archaeology site investigations, (given the archaeological interest on the development that arises from the presence of WWI practice trenches, and in line with Policy MD13 of the Local Plan and Paragraph 203 and 205 of the NPPF). As such, and with references to the tests as set out in paragraphs 195, 197, 199, 200 and 202 of the NPPF, it is considered the public benefits of the proposed development will outweigh the less than substantial harm that will be caused to the significance of Old Oswestry Hillfort as a designated heritage asset.

Paragraph 206 of the NPPF indicates that within the setting of heritage assets local planning authorities should look to enhance or better reveal their significance. The applicants have offered what is considered acceptable landscape mitigation and a viewing platform within the development from which to view the significance of the Old Oswestry Hillfort.

6.2.8 The comments made by the various objectors to the application on historic grounds as outlined earlier in this report have been taken into consideration, however whilst it is acknowledged that the Hillfort is a heritage asset of the highest significance and that great weight should be given to its conservation, there is a defined and mature boundary of vegetation along Gobowen Road. The site would be accessed from Whittington Road, on the southern boundary of the site. It is adjacent to an existing industrial development and there is existing development on the opposite side of Whittington Road. The development of the

proposed site would not impinge on the rural setting of the Hillfort and will be acceptable in relation to other historic assets such as Oldport Farm, considered a non-designated heritage asset. Development on site would be seen from the Hill Fort against the existing urban edge, and it is considered that development in this wider rural context, would be minimal and the significance of the designated heritage asset would not be compromised. It is considered that development on site is low density with generous landscaping and as such complies overall with the Statement of Common Ground drawn up between Shropshire Council and Historic England, when the site was allocated for housing in accordance with the SAMDev as outlined by the Planning Inspector, in her Report dated October 2015. It is noted that Historic England did not object to development on site during the adoption process for housing on site and they maintain no objection to the proposal under discussion.

- 6.2.9 In relation to impacts on the historic environment and the fact that Officers consider development as proposed will lead to 'less than substantial' harm to the significance of the Scheduled Monument, it is concluded that the views of the Council's Conservation Manager and the comments as made by Historic England are shared and thus the proposed development is considered to be in accordance with the relevant local plan policies, policies CS6 and CS17 of the Shropshire Core Strategy, Policies MD2, MD13 and S14 of the SAMDev and the NPPF as discussed above.

6.3 **Siting, scale and design**

- 6.3.1 Policy CS6 of the Core Strategy is concerned with delivering high quality sustainable design in new developments that respect and enhance local distinctiveness. This is further bolstered by SAMDev Policy MD2. In summary, these policies expect new development to be designed to be sustainable in the use of resources, including during the construction phase and future operational costs, reduced reliance on private motor traffic, be respectful of its physical, landscape setting and context and to incorporate suitable mitigation in the form of materials and landscaping. Significantly, Policy MD2 allows for appropriate modern design and promotes "embracing opportunities for contemporary design solutions, which take reference from and reinforce distinctive local characteristics to create a positive sense of place but avoid reproducing these characteristics in an incoherent and detrimental style." Paragraph 130 of the NPPF indicates that decisions should ensure that developments are sympathetic to local character and history, including the surrounding built environment and landscape setting and are visually attractive, as a result of good architecture, layout and appropriate and effective landscaping. Whilst the Hill Fort is considered an important historic and landscape feature, it is also acknowledged that within the surrounding vicinity alongside the application site, (to the south and west of the site), which forms part of the monuments setting, there are existing modern housing and industrial

developments. Notwithstanding previous development, the current application proposes residential development on an allocated housing land site of a scale and layout considered appropriate for the location. Indeed, the scale and density is considered low as the site is allocated for approx 117 dwellings (Land off Whittington Road, OSW004), and this application proposes 83 dwellings well-spaced out in landscape layout. As referenced by the applicants in their Planning Statement, the Planning Inspector considered this site in great detail, during the SAMDev Plan examination for which Shropshire Council and English Heritage, (now known as Historic England) agreed a Statement of Common Ground (SOCG). This confirmed that English Heritage accepted the principle of some development on site OSW004 since 2013 and will seek to secure opportunities to enhance the public's appreciation of the Hillfort, namely:

“This Statement supports the representation English Heritage made at the Pre-Submission stage on 28 April 2014. We have stated in previous responses going back to August 2013 that it may be possible for some development to take place on Site OSW004, subject to appropriate master planning and design principles, that help to conserve the significance of Old Oswestry Hillfort, including its setting. If the Council considers the site is justified by the evidence base it has and the Planning Inspector is minded to include Site OSW004 within the adopted SAMDev Local Plan, then we would seek the following modifications to ensure the impacts to the significance of the Hillfort are minimised and enhancement opportunities are secured. The purpose of this additional information is to inform the strategic design principles to conserve the significance of the Hillfort. The Statement of Significance is not intended to form part of the SAMDev Local Plan itself but to form part of the evidence base and inform the master planning of this site.

The SOCG describes the Hillfort and its rural setting to the west, north and east of the Hillfort. It explains that site OSW004 is acceptable because it is against the existing urban edge south-east of the Hillfort, stating:

Site OSW004 would be seen from the Hillfort against the existing urban edge, in views to the southeast. The site is lower lying than the land to the west of the B5069 and so would have a roofscape presence in views to the southeast from the Hillfort, which would need careful design consideration. The southwest section of OSW004 is further away and partly obscured behind existing industrial development.”

- 6.3.2 It is considered this application proposes residential development that satisfies the above-mentioned proposing 83 dwellings of traditional two-storey detached and semi-detached design, offering a mixture of bedrooms sized properties including affordable housing in accordance with policy requirements for the location concerned. (10% and to be secured via a Section 106 agreement in the event of the application being approved by the Council).
- 6.3.3 In relation to siting, scale and design, this matter in relation to detail as set out in support of the application is considered to be addressed satisfactory and in

-	Land North Of Whittington Road
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accordance with Policies CS6, CS17, CS11, MD2, MD12 and MD13 of the SAMDev and the NPPF in relation to good design. Built development to the northern boundary is considered acceptable with detail in support of the application indicating good landscaping detail in this part of the site, which will contribute towards integrating the development into the surrounding landscape and this includes acceptability in relation to the setting of the Hill Fort. Development is proposed in-line with the curtilage of the adjacent existing development, with adequate landscaping proposed to the north. In her report on the SAMDev, the Planning Inspector went into detail with regard to this site, noting that the layout should ensure that new development does not protrude to the north of the existing built development. The statement of common ground agreed between Shropshire Council and Historic England confirmed that Historic England had been involved in discussions from the earliest stage of the SAMDev Plan process and it is noted Historic England have not objected to the building line and layout as proposed. It is noted that objectors to the application have referred to the building line to the north of the site, considering development as proposed exceeds this line. Development does not exceed the curtilage to the development and further still there is a farmstead to the north of this. To limit development as suggested by objectors would mean the site allocation (up to 117 houses) could not be delivered on site. The application proposes 83 dwellings which although considered a low density, (34 dwellings per hectare), with landscaping as proposed is considered by Officers to be acceptable.

6.4 Visual impact and landscaping

- 6.4.1 Policy CS6 provides additional detail on how sustainable design will be achieved. To respond effectively to local character and distinctiveness, development should not have a detrimental impact on existing amenity value but respond appropriately to the context in which it is set. Policy CS17 'Environmental Networks' states that development will identify, protect, enhance, expand and connect Shropshire's environmental assets and does not adversely affect the visual, heritage or recreational values and functions of these assets, their immediate surroundings or their connecting corridors. In addition, SAMDev Policy
- 6.4.2 MD12: The Natural Environment builds on Policy CS17 providing development which appropriately conserves, enhances, connects, restores or recreates natural assets.
- 6.4.3 A detailed Landscape and Visual Impact Assessment has been submitted with the application, and this concludes that: *Overall the scale and form of proposed development is likely to result in change at a relatively localised level, on the north-eastern extent of the settlement of Oswestry. This will influence the landscape character and visual amenity in this location at the settlement edge. The proposals for green infrastructure and landscaping will deliver several enhancements in terms of the physical landscape. These proposals have been developed with reference to SAMDev policy 14.1a, to published landscape character assessment Shropshire Landscape Typology, and to the published Shropshire Landscape and Visual Sensitivity Study. The development envelope also responds to and positively addresses the constraints and opportunities*

identified as part of the detailed landscape and visual analysis. The proposed development will therefore respect its context and the character of the landscape in this area of the settlement fringe of Oswestry. This will be achieved through the retention of existing landscape features, the careful siting of new built form alongside the existing settlement edge, together with supplementary elements of landscape infrastructure, such as the new green link and avenue trees, the Observation Point, the northern landscape buffer, open spaces, and new tree planting along Whittington Road. The visual amenity of both new and existing residents, road users and users of public rights of way has been considered through the iterative process of analysis and design, so that new planting works to screen, soften, filter or enhance views in the long term. This includes the consideration of views to and from Old Oswestry Hillfort. The introduction of new built form is not inconsistent with the immediate site context due to the existing residential and commercial land uses nearby. In addition, the landscape strategy will ensure that the proposed development can be assimilated with the local landscape character. The proposed development is therefore considered acceptable in landscape and visual terms

6.4.5 The SC Landscape Adviser has commented on the application and in his conclusions as set out in paragraph 4.6 above concludes that the LVIA has been prepared in a proportionate manner in compliance with the guidance set out in GLVIA3 and supporting Technical Guidance Notes. The LVIA comments that the majority of landscape and visual effects are adverse, with a small number of neutral visual effects. The adverse effects range from moderate to major adverse (significant) to negligible adverse. At Year 15 with mitigation in place, predicted levels of effect reduce and none are predicted to be significant. No beneficial effects are predicted. The most adverse effects are predicted in the short term for users of the Hillfort, and the significant predicted levels of moderate to major adverse arise from a combination of (a) the very high visual sensitivity of visitors to the Hillfort, and (b) the open views to the south-eastern parts of the proposed development. Although the proposed development will bring a noticeable new element into the landscape, parts of it will be obscured by the trackside vegetation along the Cambrian Railway, and it appears located within an arc of existing built form comprising Oldport and the settlement edge of Oswestry. Over time, the proposed planting within the development and on the frontage open space to Whittington Road will have the beneficial effect of softening the visually intrusive commercial/employment-built form on the southern edge of Whittington Road. The Landscape Advisor has indicated concerns that the phased nature of the development places significant risks to the effective delivery of the proposed mitigation and enhancement measures. (Development is in one phase so not a phased development). Whereas outline details of the observation point are included, no details are provided on the interpretive material relating to the Hillfort. The recommendations that the landscape advisor made in their February 2023 review in relation to additional information to be sought prior to determination of the application have been satisfactorily addressed. The Landscape Advisor recommends that, if the application is approved, that conditions be imposed

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requiring

- The open space adjacent to the northern boundary of the site be laid out in its entirety by the end of the first planting season after commencement of development of Phase 1 (Development is not phased).
- The submission of details of the observation point and interpretive material relating to the Hillfort.

6.4.6 It is noted that the SC Tree Manager has indicated that the proposal would have a very low impact on the existing arboriculture resource and the new planting would bring significant benefits and increase the extent of the urban forest in Oswestry. No objections are raised to the proposed development, and a recommendation is made that the protection of the existing retained trees and the landscape planting site is a condition of any grant of planning approval.

6.4.7 The application proposes provision of amenity space which exceeds the minimum requirements of Policy MD2 as set out in the SAMDev within the site along with landscaping in the form of mitigation in consideration of the site location and the setting of the Hill fort to the north of the site. The proposed site plan indicates substantial landscaping alongside the northern boundary, a planting buffer alongside the western boundary, (adjoining industrial development), and alongside the southern boundary with Whittington Road, Dwelling plot sizes are considered acceptable with consideration to the overall site layout and location for the proposed development

6.4.8 Cumulative impacts of the development are considered acceptable in relation to the surrounding built environment, to which development on site will have a strong connection too, whereas the Hill Fort will remain as a stand alone landmark surrounded by farmland alongside its boundary setting, and as such well as impacts in relation to the Hill Fort site with landscaping as proposed considered acceptable. (This is a matter raised by HOOOH in objection as set out in paragraph 4.19 above, and the Civic Society par 4.25).

6.4.9 Whilst comments as made by objectors to the application as referred to earlier in this report are acknowledged, on landscape and visual impact and provision of amenity space the application is considered acceptable, the proposed development includes significant landscaping and adequate provision of open space and as such it is considered development will integrate into the landscape satisfactorily with conditions attached as discussed in paragraph 6.4.5 above, if the application was to be approved by the Council. Any approval would also require a Section 106 agreement in accordance with the Town and Country Planning Act 1992, in order to ensure the provision of the amenity space as proposed and to ensure its maintenance and management in perpetuity.

6.4.10 As such , the application is considered acceptable and in accordance with Policies CS6 and CS17 of the Shropshire Core Strategy, Policies MD2, MD12, MD13 and S14.1a of the SAMDev and the NPPF on these matters

6.5 **Public Highway access and transportation**

6.5.1 The NPPF, at section 4, seeks to promote sustainable transport. At paragraph 32 it states that decisions should take account of whether safe and suitable access to the site can be achieved for all people and whether improvements can be

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undertaken within the transport network that cost effectively limit the significant impacts of the development. Development should only be prevented or refused on transport grounds where the residual cumulative impacts of development are severe.

6.5.2 Core Strategy policy CS6 seeks to ensure that proposals likely to generate significant levels of traffic be located in accessible locations, where opportunities for walking, cycling and use of public transport can be maximised and the need for car-based travel reduced

6.5.3 Policy S14.1a of the Council's SAMDev refers to the allocated housing site and sets out development guidelines which include that development on site will need to be subject to pedestrian and cycle path links to the former railway, (adjacent to the site), and a new footpath link between Whittington Road and Gobowen Road to improve access towards the Hill Fort. Development will also be subject to improvements to the Whittington Road with the A5/483. These matters have been raised as a concern by various objectors to the application as outlined earlier in this report.

6.5.4 Post publication of the SAMDev, Cambrian Heritage Railways were granted statutory powers in 2017 to operate the former railway. This means that the delivery of a new public footpath in the northwest corner across the railway to Gobowen Road will no longer be deliverable as nationally there is a presumption against authorising new level crossings. It is understood the SAMDev requirement for a link in this location was made on the assumption that the former railway was to be converted to a pedestrian cycle link from the site into Oswestry town centre, which clearly hasn't materialised now that statutory powers were granted to Cambrian Railways to restore the line.

6.5.5 Vehicular access to the site is proposed from Whittington Road via a new ghost island priority junction with Whittington Road. This will be formed by extending the existing ghost island arrangements at Harlech Road, which requires the existing right turn storage for Harlech Road to be marginally reduced. The proposed site access junction can be provided to the required standard with appropriate visibility splays, using land that is either part of the site or the adjacent public highway. The scheme would include new pedestrian refuges to enable pedestrian movement between the development and the existing developed area to the south. The site is located within the recommended walking distance of local bus services that pass along Whittington Road, and also within a reasonable walking distance of alternative services that use Windsor Road. These provide a good level of service to/from Oswestry town centre, the employment areas to the south and Gobowen railway station to the north. The proposed development would be within a comfortable walking distance of Oswestry town centre, which contains a range of shops, school, recreation facilities and employment opportunities. The area surrounding the site is also accessible by cycle, which could be an attractive and viable mode of travel for trips to adjacent employment opportunities and Gobowen railway station. Available records of personal injury accidents provide no evidence of any road-safety related-issues on the highway network adjacent to the site.

6.5.5 The applicants have submitted a Transport Assessment, and this concludes that

assessment work undertaken demonstrates that safe and suitable access to the site can be provided from Whittington Road and that, in NPPF terms, the development will have minimal impact on both the operation of the local highway network and highway safety. Based on the assessment, the proposals accord with national, regional and local transport related policies and as such, the proposed development is considered acceptable in respect of transport.

6.5.6 National Highways raise no objection to the proposal and have not requested any improvements to the strategic highway network. As such whilst reference to this matter in Policy S14:1a of the SAMDev is noted, this matter cannot be imposed as it would be considered unreasonable given National Highways comments on the application.

6.5.7 S.C. Highways Manager also raises no objections indicating in response to the application that there are no highway safety or capacity grounds that would justify an objection to consent being granted. The response recommends that conditions are attached to any approval notice issued in respect of construction detail on estate roads, street phasing and completion plan, detail in relation to the Whittington Road ghost island junction to serve the development and that development on site is carried out in accordance with the Travel Plan submitted in support of the application.

6.5.8 Whilst it is considered pedestrian links have not been fully met with regards to the aspirations as set out in the statement of common ground, and SAMDev policy S14.1a i.e. access along the old railway line, the comments made by members of the public and organisations such as Cambrian Heritage Railways Ltd in relation to public access and highway matters and vehicle movements have been considered and are not considered to warrant a recommendation for refusal of this application. The SAMDev was adopted prior to Cambrian Heritage Railways (CHR) being granted statutory powers in 2017 to operate the former railway. CHR have made it clear that the railway line is not disused with the freehold of the line owned by Shropshire Council, with a long lease to CHR who aspire to restore the line and reopen services between Oswestry and Gobowen. The granting of statutory powers to CHR and the future restoration of the line prevents the ability of Cameron Homes to deliver a pedestrian and cycle path link to Gobowen Road given the national presumption against authorising new level crossings. SC Historic Environment have indicated in their response to the application that "It is understood that due to a change in the legal status of the railway line since the adoption of the SAMDev plan in 2015, it is not currently possible to create the footpath linkage to Gobowen Road. For the same reason it is also not possible to create a pedestrian and cycle linkage back to the town centre." Whilst the delivery of the link to Gobowen Road is not possible. Any link from the application site to Gobowen Road would not necessarily provide a more direct route for pedestrians or cyclists from the development site to access the Hill Fort. There are no PROW or permissive routes leading from Gobowen Road that then go on to provide access onto the Hill Fort. The OS map indicates a PROW in this area and that there are no direct links from Gobowen Road to the Hill Fort (other than a PROW link much further north). Rather, to access the Hill Fort any pedestrian or cyclist

would then have to walk south down Gobowen Road, west along Jasmine Gardens and Wat's Drive, and then north along Llwyn Road to access the Hill Fort Car Park and gain pedestrian access onto the Hill Fort itself. This provides no quicker or shorter route than any pedestrian or cyclist leaving the application site via the main access onto Whittington Road and then travelling down Whittington Road to Gobowen Road, Coppice Drive, Wat's Drive and thereon. On this basis it is considered that any link to Gobowen Road would serve no strategic benefit in terms of accessing the Hill Fort by foot or cycle. Also any new link towards the town centre would be on the opposite site of Gobowen Road to the existing footway already along that road. The proposed layout includes new circular footpath routes through the swathe of POS leading from the western boundary with the railway line and along the northern part of the site, including a feature observation point with Hill Fort interpretation boards near to the site's northern boundary, which in turn connects to a pedestrian avenue linking to Whittington Road. It is considered that the requirements of the SAMDev are met through the proposed on-site landscaping strategy which allows pedestrians and cyclists to travel towards the Hill Fort from Whittington Road and to appreciate the Hill Fort when doing so, particularly within the northern and north western parts of the site. This is a significant improvement to the existing situation where pedestrians and cyclists are restricted to viewing the Hill Fort from further away on Whittington Road. In conclusion, whilst the development is unable to deliver the SAMDev requirement of a pedestrian and cycle link to Gobowen Road, as demonstrated above, the scheme is still able to demonstrate improved access towards the Hill Fort. Furthermore, whilst not deliverable, any link onto Gobowen Road itself would not provide any connectivity benefits any more so than the connectivity being provided via the access onto Whittington Road.

6.5.9 In relation to public highway and transportation matters, which includes reference to the Strategic Highway Network, development on site is considered acceptable. As such on highway and transportation grounds, the application on balance overall complies with Policy CS6 in the Shropshire Core Strategy, Policy MD2 of the SAMDev and the NPPF in relation to highway and transportation matters.

6.6 **Drainage**

6.6.1 Core Strategy policy CS18 relates to sustainable water management and seeks to ensure that surface water will be managed in a sustainable and coordinated way, with the aim to achieve a reduction in the existing run-off rate and not result in an increase in runoff. The site is identified by the Environment Agency flood data map, as being fully located within Flood Zone 1. (Low risk of flooding). Such areas are assessed as having a less than 1 in 1,000 annual probabilities of river or sea flooding (<0.1%) in any one year.

6.6.2 A Flood Risk Assessment and Drainage Strategy have been submitted in support of the application and this concludes that the site is located within an area of very low to low risk of surface water flooding. Overall, it is deemed that the flood risk to the site is low. Surface water from the proposed development will be drained into the ground via an infiltration basin. The basin will attenuate surface water rainfall

up to the 1 in 100-year return period plus 40% allowance for climate change and a 10% allowance for urban creep. Foul water from the proposed development will be drained by a separate foul water drainage system that will discharge to a foul pumping station via a rising main into the public foul water sewer in Whittington Road.

- 6.6.3 SC Drainage have responded to the application raising some concerns with regards to detail, however, overall raise no objections recommending a condition is attached to any approval notice issued with regards to surface and foul water drainage detail. It is considered such a condition will address minor detail concerns raised.
- 6.6.4 United Utilities raise no objections recommending a condition is attached to any approval notice with regards to protection of a water main that passes through the site.
- 6.6.5 Severn Trent have raised no objections subject to a satisfactory foul and surface water drainage from the site
- 6.6.6 On drainage issues with conditions imposed with regard to surface and foul water drainage and protection of the water main as advised by United Utilities, the application is considered to be in accordance with policies CS6 and CS18 of the Shropshire Core Strategy, Policy MD2 of the SAMDev and the NPPF, and is therefore acceptable.

6.7 Ecology

- 6.7.1 The NPPF places high importance on protection of biodiversity interests and new development should minimise impacts on biodiversity. Planning permission should be refused where significant harm from a development cannot be avoided. It also places great weight on conserving and enhancing the natural environment. Core Strategy Policies CS6 and CS17 require development proposals to respect the natural environment of Shropshire and its biodiversity interests. Policy MD12 of the SAMDev, amongst other matters, encourages development which appropriately conserves, enhances, connects, restores or recreates natural assets, particularly where this improves the extent or value of those assets which are recognised as being in poor condition. Development should minimise impacts upon biodiversity and provide net gains in biodiversity wherever possible.
- 6.7.2 The applicants have submitted an Ecological Impact Assessment and its findings have been considered as part of the application processing.
- 6.7.3 SC Planning Ecology have responded that they have reviewed the information and plans submitted in association with the application and that they are happy with the survey work carried out. The Ecological Impact Assessment carried out by Eco Tech (Amended January 2023) determined no substantial change has occurred on site from an original report in November 2018. The majority of the site comprises arable land, with a small region of tall ruderal (vegetation growing on disturbed land), , which is now dense bramble and short perennial vegetation, which is used for storing materials, so is mostly bare ground as of 2022. The response indicates that conditions and informatives are recommended to ensure the protection of wildlife and to provide ecological enhancements in accordance with the NPPF, and local plan policies MD12 and CS17. Conditions recommended by SC Ecology

refer to a badgers' pre-commencement survey, biodiversity net gain on-site provision, wildlife enhancements, a external lighting plan, and all works on site to occur strictly in accordance with the mitigation and enhancement measures regarding bats, badgers and birds as provided in Section 5 of the Ecological Impact Assessment (Eco Tech, amended January 2023). Reference to recommended informatives is set out in paragraph 4.7 above.

- 6.7.4 On ecological and biodiversity issues, with conditions attached as recommended by SC Ecology, the application is considered acceptable and in accordance with Policies CS6 and CS17 of the Shropshire Core Strategy, Polices MD2 and MD12 of the SAMDev the NPPF. and the 2019 Conservation of Habitats and Species (Amendment) (EU Exit) Regulations

6.8 **Residential amenity**

- 6.8.1 Core Strategy policy CS6 requires that developments safeguard residential and local amenity. The applicants have submitted a noise assessment and odour impact assessment in relation to the proposal and these have been considered as part of the considerations in relation to the application.

- 6.8.2 The applicants Noise Assessment concludes that survey work carried out at this site indicates that the overall noise climate is determined by traffic noise from Whittington Road in the southeast and from the A5 in the east. Traffic noise is audible across the site. There was no obvious noise impact from the Kwik Fit, Furrows Skoda car dealership, or W&M Agricultural Engineering Ltd premises during any of the site visits. There was localised noise from activities at Traditional Products Ltd along the western boundary including HGV and general activity. The Assessment considers that noise emissions from these premises would be reduced to acceptable levels at the development site with appropriate boundary treatments and control measures to dwellings. Any reduction of commercial noise achieved at the development site would likely enable this noise to be fully masked by existing traffic noise. Careful design and layout of the residential units has been utilised to minimise the impact of commercial noise on the nearest proposed dwellings, moving dwellings away from the more sensitive western perimeter. Each of these closest dwellings are now single aspect and as such, there are no habitable rooms which directly overlook the Traditional Products Ltd site. The site also benefits from a substantial 2.4-metre-high brick wall which runs along the western site perimeter which will be complimented with a timber fence of equivalent height, along with a 2.0 metre high close boarded timber fence further to the north. BS8233 internal criteria can be achieved for all habitable rooms by use of an appropriate acoustic rated glazing systems and vents to control external noise break-in. It is considered that the BS 8233 internal criteria are achievable on all elevations. BS 8233 external criteria will be achieved for gardens through careful site layout and by provision of screening along boundaries to Whittington Road. BS 8233 external criteria will be achieved for gardens on the western and southern boundaries by provision of screening measures. The measures required to satisfy BS8233 would also enable compliance with the recommendations of ProPG.. The assessment in this report indicates that, provided appropriate control measures are adopted, development of the site for residential use should not

result in any increased constraints upon the commercial premises to the west of the site.

- 6.8.3 SC Public Protection initially responded to the application indicating that on noise issues following on from assessments carried out for the previous application the current proposal has incorporated a single aspect design for properties facing the commercial use to the west of the site which has largely mitigated the impact of commercial noise on these properties. The rear rooms of the houses closest to the commercial use (24-31) would slightly exceed the recommended noise standard. Modelling information has been provided which gives the façade noise levels for the properties to the west of the site. However, modelling and façade noise levels had not been provided for properties to the east of the site that will be impacted by road traffic noise from the A5 and Whittington Road.
- 6.8.4 On receipt of further clarification on noise matters, SC Public/Environmental Protection indicated in relation to noise that the additional noise information provided clarifies that the mitigation scheme proposed in the acoustic report is acceptable if fully implemented. Should it be considered appropriate to grant consent they recommend that a condition is attached referring to the approved mitigation scheme, as detailed in Revision 4 of the Hoare Lea Acoustic report dated 13 March 2023, being completed prior to the first occupation of the development and shall thereafter be retained. In relation to Contaminated Land the SC Public /Environmental Protection response indicates that the report by ASL; Site Investigation, Land at Whittington Road, Oswestry; Report No. 223-18-020- 09 Rev1, dated September 2018 has been submitted in support of this application and that some potential contaminant linkages have been identified that require remediation in the north-west area of the site (gas and soil). Outline remediation proposals have been proposed, but a more detailed remediation strategy is required to include validation proposals. The response recommends a condition in relation to any site investigation report on finding that the site to be further contaminated, that a further report detailing a Remediation Strategy shall be submitted to the local planning for consideration as set out in their response in paragraph 4.11 above.
- 6.8.5 Officers conclude that on noise issues the development is acceptable with a suitably worded condition attached as recommended by Public Protection.
- 6.8.6 The Odour Impact Assessment concludes that the potential sources of odour within the study area have been identified and of these the only two sources

considered capable of giving rise to an odour at detectable concentrations at or within the application site boundary are the smell of worked wood and the smell of wood smoke from the Traditional Products site adjacent to the southwestern boundary of the application site. Based on field observations and dispersion modelling the evidence is that the affected part of the application site is limited to the south-western corner and at this location the effect on amenity would be negligible. The effect of odour on the users of the application site is concluded to be not significant.

6.8.7 The response from SC Public Protection indicated that the conclusions that there is not likely to be any significant impact due to odour from the neighbouring commercial activities is accepted by Officers.

6.8.8 In consideration of residential amenity issues as discussed above, on balance with conditions attached to any approval notice as discussed, the proposal is considered acceptable. With consideration to the site layout and adjacent land uses general residential amenity and privacy issues in relation to individual dwellings forming part of the overall development, as well as residential developments in the surrounding area is also considered acceptable. Therefore with the above in mind, it is considered that the proposal is in accordance with Policy CS6 of the Shropshire Core Strategy, Policy MD2 of the SAMDev and the NPPF in relation to residential amenity and privacy issues.

6.9 **Affordable Housing**

6.9.1 The provision of 10% affordable housing on-site, (8 units), is required in accordance with local plan policy, (Policies CS11, MD3 and Supplementary Planning Document: Type and affordability of Housing), which represents 10% of the housing on site. The applicants propose 4 - 2 bedroomed dwellings, 2 - 1 Bedroomed units and 2 - 3 bedroomed units along with a financial contribution of £25,380. The proposed tenure is for 6 rented units and 2 shared ownership. All are two-storey. The Council's Affordable Housing Officer has indicated the proposal as acceptable.

6.9.2 Whilst comments made about the proposed affordable housing by members of the public and HOOOH, are noted, the proposal is in accordance with the relevant local plan policies and as such deemed acceptable.

6.10 **Other matters**

Section 106 agreement/Heads of Terms - The applicants have agreed to the signing of a Section 106 agreement for the provision of the affordable housing units on site along with the financial contribution of £25,380 which represents the 0.3 provision to make the required amount of 10% affordable housing provision. This will be secured by a Section 106 agreement which will also make reference to the provision on site of public open space and the Hill Fort Viewing platform and their long-term maintenance.

The emerging Draft Shropshire Local Plan (2016-2038) has been through several stages of consultation (Regulation 18 (plan-making) and Regulation 19 (pre-submission)) and the Draft Local Plan was submitted to the Planning Inspectorate for examination on the 3rd September 2021. At the time of writing,

the local plan review has not yet reached a stage where it can be given significant weight in decision making. However, it is noted that this site is a saved site in accordance with the draft local plan.

Sustainability – The site is allocated for housing in accordance with the local plan and thus the sustainability credentials of the site have been thoroughly tested as part of the local plan, adoption process. As such the development is considered sustainable and in accordance with the requirements of the NPPF.

Infrastructure – This ties in with the above-mentioned point and overall sustainability. Further still Community Infrastructure levy, (CIL), will assist with required infrastructure such as increased demand for school places, and if it was considered necessary local road improvements. If this was such a significant issue then this would have been a matter to consider at the site's allocation stage. It is considered current infrastructure is acceptable and it is noted no objections have been received from relevant statutory consultees on this matter.

Brown field land. Concerns have been raised that development should take place on brown field land before consideration to the application site. Whilst it is acknowledged that brown field land is welcomed for re-use, the site is allocated for housing delivery in the local plan.

Lack of connectivity to the town centre. The site is allocated for housing in accordance with the local plan. This matter would have been a consideration when the site was allocated for housing development The site remains allocated and is also allocated for housing in accordance with the local plan review. Oswestry has not exceeded housing targets and this is also a factor to consider in the overall planning balance.

Scale of dwellings - The scale of development on site, considered low-density, is considered acceptable in relation to the site and the surrounding area which includes the built environment.

Tree planting - The site is allocated for residential development and the application proposes significant landscaping and additional tree planting. It is noted the Council's Tree Manager raises no objections.

Status of the railway line alongside the north-western boundary of the site.

Whilst it is acknowledged that in principle this railway line which is not in commercial use as part of the national rail network could be brought back into use by organisations such as the Cambrian Railway, as adequate consideration has been given to the site in relation to the old railway line and whilst it is acknowledged comment has been made about vegetation alongside the railway line, this is no different to many other situations with regards vegetation and railway lines and is a management maintenance issue. Also, with consideration to the landscaping and site layout any potential noise issues as a result of use of the railway line considered acceptable.

Tourism - Concerns have been raised with regards to impacts on tourism as a result of the proposed development. The site is allocated for housing in accordance with the local plan and there is no evidence to justify development as proposed will have a detrimental impact on tourism The Hill Fort will remain as a stand alone landscape and historic attraction surrounded by agricultural land and

uses, residential developments separated by the agricultural land

Need for Housing. The site is allocated for housing in accordance with the local plan and therefore the need is justified in accordance with the local plan.

Planning procedures. Concerns have been raised that the application has not been processed in accordance with relevant planning procedures. The application has been processed in accordance with planning procedures and advertised as such.

Concerns about development not being Carbon Zero. It is considered that the development complies with local plan policies in relation to scale and design and building regulations will cover issues in relation to construction.

Loss of high-quality farmland. The site is allocated for housing in accordance with the local plan. The land is classed as grade 3 in accordance with the agricultural land classification and therefore is not in the higher grades of grade 1 or 2. It is recognised to meet housing needs some greenfield agricultural land is required to meet the need.

Local plan review is scaling back housing growth for Oswestry. The site is allocated for Housing in accordance with the current local plan and its allocation forms part of the expected growth in housing for the settlement concerned.

Overwhelming public opposition to the development. Development of the site is in accordance with the aspirations of the adopted local plan, and it is considered all material planning considerations have been adequately addressed.

Oversupply of buildings suitable for use in relation to affordable housing in Oswestry. The site is located in an affordable housing zone where 10% of any development on site needs to be classed as affordable housing in accordance with the local plan. The development meets this planning requirement.

7.0 CONCLUSION

7.1 Section 38(6) of the Planning and Compulsory Purchase Act 2004 provides that where regard is to be had to the development plan for the purpose of any determination to be made under the Planning Acts, the determination must be made in accordance with the plan unless material considerations indicate otherwise.

7.2 The relevant local plan policies are set out in this report and the proposed scheme has been assessed against them. Other material planning considerations have also been considered in the assessment of the merits of the case. The proposed development forms an allocated housing site as set out in S14.1a of the SAMDev

7.3 It is acknowledged that the Local Town Council raise objections to the application primarily in relation to impacts on the significance of the nearby Hill Fort, a scheduled ancient monument, as a consequence of the effects upon its setting, (Oswestry Town Council's objection referring to the Council having previously objected to the inclusion of Osw004 in the Local Plan). It is considered that impacts on the Hill Fort and its setting as well as the historic environment in general is acceptable and in accordance with the local plan policies and the NPPF. This matter has been discussed extensively as part of the formal adoption of the SAMDev local plan, and in detail at section 6.2 of this report, where the planning balance in relation to heritage matters was considered. No objections

have been raised by the Council's Conservation Team, (as set out in detail in paragraph 4.14 of this report), and also no objections raised from Historic England. The numerous objections received from members of the public and non-statutory consultees have also been acknowledged and taken into consideration.

- 7.4 All material planning considerations have been given careful consideration and it is considered that all matters can be adequately addressed with conditions attached to any approval notice, where considered necessary and this includes reference to impacts on the historic environment, (as well as issues in relation to archaeology, scale and design, landscape and visual impacts, public highway and transportation matters, ecological and biodiversity issues, drainage, residential amenity and privacy which includes reference to adjoining land uses and potential land contamination). As such it is considered that the substantial amount of objections raised in relation to the proposal, do not outweigh the principle of residential development on site as set out in the local plan.
- 7.5 Any approval notice issued will be accompanied by a Section 106 Agreement in order to satisfy legal issues in relation to provision of affordable housing on site, and provision and management of open space. (It is acknowledged that CIL will capture necessary infrastructure payments). As such the application is considered to comply with Policies CS6, CS9 and CS11 of the Shropshire Core Strategy, Policies MD2 and MD8 of the SAMDev and the National Planning Policy Framework on this matter.
- 7.6 Taking all the material planning matters into consideration, it is considered the application on balance is acceptable on which basis to make a positive recommendation.
- 7.7 Whilst the revised local plan is a material consideration, it carries limited planning weight and in any case it is not considered that the application is in conflict with this plan so as to warrant a recommendation of refusal.
- 7.8 As such the recommendation is one of approval subject to conditions as outlined in appendix 1 attached to this report and the applicants signing a Section 106 agreement in order to ensure provision of the required amount of affordable housing on site (8 units plus a financial contribution of £25,380 as the 0.3 housing contribution to make up to 10% affordable housing provision), and provision and maintenance of the required open space and Hill Fort viewing area on site, as the application is considered overall to be in accordance with the local plan as a whole and in relation to key Policies CS6, CS8, CS9, CS11, CS17 and CS18 of the Shropshire Core Strategy, Policies MD2, MD8, MD12 and S16 of the SAMDev, the National Planning Policy Framework as well as the 2019 Conservation of Habitats and Species (Amendment) (EU Exit) Regulations.

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. It is not considered that this development has any detrimental impacts in relation to equality issues.

9.0 Financial Implications

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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
CS3 - The Market Towns and Other Key Centres
CS6 - Sustainable Design and Development Principles
CS9 - Infrastructure Contributions
CS11 - Type and Affordability of housing
CS13 - Economic Development, Enterprise and Employment
Economic Development, Enterprise and Employment
CS17 - Environmental Networks
CS18 - Sustainable Water Management
MD1 - Scale and Distribution of Development
MD2 - Sustainable Design
MD3 - Managing Housing Development
MD8 - Infrastructure Provision
MD12 - Natural Environment
MD13 - Historic Environment
Settlement: S14 - Oswestry
National Planning Policy Framework
SPD Developer Contributions
SPD Sustainable Design Part 1

RELEVANT PLANNING HISTORY:

PREAPP/09/70108 Proposed development of land for employment purposes PRRQD 5th May 2009

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18/02760/SCR Residential Development EIA 6th August 2018
19/02685/EIA Proposed residential development of 52No dwellings with associated access, public open space, electricity sub-station, drainage and landscaping WDN 9th March 2020
19/02686/EIA Residential development of 48 dwellings with associated access, public open space and landscaping (revised description) WDN 9th March 2020
20/01033/EIA Proposed residential development of 83No. dwellings with associated access, public open space, electricity sub-station, drainage and landscaping.

REFUSE 28th March 2022

22/04686/SCR Proposed residential development of 83No. dwellings with associated access, public open space, electricity sub-station, drainage and landscaping. EAN 14th November 2022
23/00225/FUL Proposed residential development of 83 dwellings with associated access, public open space, electricity sub-station, drainage and landscaping (re-submission) PDE

11. Additional Information

View details online: <http://pa.shropshire.gov.uk/online-applications/applicationDetails.do?activeTab=summary&keyVal=ROP3QZTDLRX00>

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 Scofield
Local Member Cllr John Price Cllr Chris Schofield
Appendices APPENDIX 1 - Conditions

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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 construction shall commence until details of the means of ensuring the water main that is laid within the site boundary is protected from damage as a result of the development have been submitted to and approved by the Local Planning Authority in writing. The details shall outline the potential impacts on the water main from construction activities and the impacts post completion of the development on the water main infrastructure that crosses the site and identify mitigation measures to protect and prevent any damage to the water main both during construction and post completion of the development. Any mitigation measures shall be implemented in full in accordance with the approved details.

Reason: In the interest of public health and to ensure protection of the public water supply.

4. Within 90 days prior to the commencement of development, a badger inspection shall be undertaken by an appropriately qualified and experienced ecologist and the outcome reported in writing to the Local Planning Authority. If new evidence, or a change in status, of badgers is recorded during the pre-commencement survey then the ecologist shall submit a mitigation strategy for prior approval that sets out appropriate actions to be taken during the works. These measures will be implemented as approved.

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

5. Before any construction works hereby approved are commenced, a Construction Environment Management Plan (CEMP) and Habitat Management Plan (HMP) expanding upon the information provided within the Biodiversity Metric, Landscape Plan and Ecological Impact Assessment documents detailing, in full, measures to protect existing habitat during

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construction works and the formation of new habitat, to secure a habitat compensation value of at least 40% biodiversity units, shall be submitted to and approved in writing by the Local Planning Authority. Within the CEMP/HMP document the following information shall be provided:

- i) Current soil conditions of any areas designated for habitat creation and detailing of what conditioning must occur to the soil prior to the commencement of habitat creation works (for example, lowering of soil pH via application of elemental sulphur);
- ii) Descriptions and mapping of all exclusion zones (both vehicular and for storage of materials) to be enforced during construction to avoid any unnecessary soil compaction on area to be utilised for habitat creation;
- iii) Details of species composition and abundance (%age within seed mix etc.) where planting is to occur;
- iv) Proposed management prescriptions for all habitats for a period of no less than 30 years;
- v) Assurances of achievability;
- vi) Timetable of delivery for all habitats; and
- vii) A timetable of future ecological monitoring to ensure that all habitats achieve their proposed management condition as well as description of a feed-back mechanism by which the management prescriptions can be amended should the monitoring deem it necessary.

The development shall thereafter be undertaken in accordance with the approved CEMP/HMP.

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

6. No ground clearance, demolition, or construction work shall commence until a scheme has been submitted to and approved in writing by the local planning authority to safeguard trees to be retained on site as part of the development. The approved scheme shall be implemented in full prior to the commencement of any demolition, construction or ground clearance and thereafter retained on site for the duration of the construction works.

Reason: To safeguard existing trees and/or hedgerows on site and prevent damage during building works in the interests of the visual amenity of the area, the information is required before development commences to ensure the protection of trees is in place before ground clearance, demolition or construction.

7. 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 prior to occupation of the development within any such phase.

Reason: - To ensure that the estate streets serving the development are completed and thereafter maintained to an acceptable standard in the interest of residential / highway safety;

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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.

8. 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.

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

Reason: The development site is known to have archaeological interest.

10. No development shall take place until a scheme of surface and foul water drainage which includes the adequate conveyance of both the culverted watercourse and overflow from the Vyrnwy Aqueduct throughout the site 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.

11. No development approved by this permission shall commence until 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 impacts of the development on the setting of designated heritage assets are minimised.

12. No development approved by this permission shall commence until a lighting design that minimises skyglow has been submitted to and approved in writing by the local planning authority. The lighting shall be carried out in complete accordance with the approved details

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Reason: To ensure that the impacts of the development on the setting of designated heritage assets are minimised.

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

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

The lighting plan shall demonstrate that the proposed lighting will not impact upon ecological networks and/or sensitive features, e.g. bat and bird boxes, 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.

14. All works to the site shall occur strictly in accordance with the mitigation and enhancement measures regarding bats, badgers and birds as provided in Section 5 of the Ecological Impact Assessment (Eco Tech, amended January 2023).

Reason: To ensure the protection of and enhancements for bats, which are European Protected Species, badgers, which are protected under the Protection of Badgers Act 1992 and birds which are protected under Section 1 of the 1981 Wildlife and Countryside Act (as amended).

15. a) 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. b) The works detailed as being necessary to make safe the contamination shall be carried out in accordance with the approved Remediation Strategy. c) 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 DEFRA and the Environment Agency's 'Model Procedures for the Management of Land Contamination, CLR 11' and must be submitted to and approved in writing by the Local Planning Authority. Where remediation is necessary a remediation scheme must be prepared which must ensure that the site will not qualify as contaminated land under

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Part 2A of the Environmental Protection Act 1990 in relation to the intended use of the land after remediation. The remediation proposal is subject to the approval in writing by the Local Planning Authority. d) 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.

16. Prior to the development hereby permitted being first occupied the Whittington Road ghost island junction to serve the development shall be fully implemented in accordance with engineering details to be first submitted to and approved in writing by the Local Planning Authority.

Reason: In the interests of highway safety.

17. Upon the development hereby permitted being first occupied the Travel Plan shall be implemented in accordance with the approved details: the Travel Plan shall therefore remain in force for the lifetime of the development.

Reason: To promote sustainable travel in the interests of reducing car born traffic.

18. Works on site in relation to landscaping shall be carried out in accordance with detail as set out in the detail submitted in support of the application, Landscape Management Plan reference P22 - 2497 - March 2023 - Revision A. The open space adjacent to the northern boundary of the site will be laid out in its entirety by the end of the first planting season after commencement of development . All other works will be carried out and completed prior to occupation of the remaining dwellings on site.

Reason: In consideration of the visual impacts and amenity of the surrounding area.

19. Prior to occupation of any dwellings on site detail will be submitted to the Local Planning Authority and approved in writing with regards to the submission of details of the observation point and interpretive material relating to the Hillfort site, and its longterm maintenance. Detail will be carried out as approved in accordance with an agreed timetable to be submitted as part of the submission details.

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Reason: In consideration of the visual importance of the Hill Fort and its historic and landscape value.

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

The following boxes shall be erected on the site:

- 1 in every 3 proposed dwellings will have an external woodcrete bat boxes or integrated bat bricks, suitable for nursery or summer roosting for small crevice dwelling bat species.
- 1 in every 3 proposed dwellings will have artificial nests, of integrated brick design, suitable for swifts (swift bricks).
- A minimum of 15 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 10 invertebrate bricks shall be incorporated into the site design.
- A minimum of 3 hedgehog domes (standard design) will be incorporated into the site design.
- A minimum of 2 hibernaculum shall be created, suitable for amphibians.

The boxes/enhancements 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.

For swift bricks: 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 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> for more details).

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

21. The approved mitigation scheme, as detailed in Revision 4 of the Hoare Lea Acoustic report dated 13 March 2023, shall be completed prior to the first occupation of the development and shall thereafter be retained for the lifetime of the development.

Reason: To protect residential amenity, health and wellbeing.

Informatives

1. 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 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.

2. Badgers, their setts and the access to the setts are expressly protected under the Protection of Badgers Act 1992. It is a criminal offence to kill, injure, take, possess or control a badger; to damage, destroy or obstruct access to a sett; and to disturb a badger whilst it is occupying a sett.

Badgers are a highly mobile species and are known to create new setts and abandon and re-use existing setts in relatively short periods of time.

No development works or ground disturbance should occur within 30m of a badger sett without having sought advice from an appropriately qualified and experienced ecologist and, where necessary, without a Badger Disturbance Licence from Natural England. All known badger setts must be subject to an inspection by an ecologist immediately prior to the commencement of works on the site.

There is an unlimited fine and/or up to six months imprisonment for such offences. Items used to commit the offence can also be seized and destroyed.

3. 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.

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The following procedures should be adopted to reduce the chance of killing or injuring small animals, including 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 amphibians discovered should be allowed to naturally disperse. Advice should be sought from an appropriately qualified and experienced ecologist if large numbers of common 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.

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Committee and date
28th July 2023

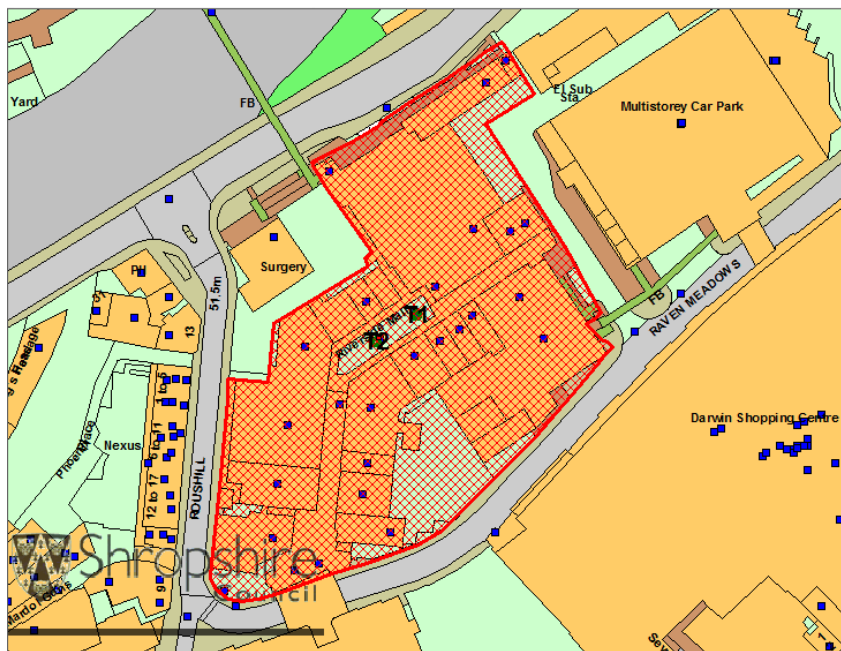
Development Management Report

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

Summary of Application

Application Number: 23/02123/FUL	Parish:	Shrewsbury Town Council
Proposal: 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		
Site Address: Riverside Shopping Centre Pride Hill Shrewsbury Shropshire		
Applicant: Shropshire Council		
Case Officer: John Shaw	email: john.shaw@shropshire.gov.uk	

Grid Ref: 349132 - 312736



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

REPORT

1.0 THE PROPOSAL

1.1 This application relates to the partial demolition of the Riverside Shopping Centre, Shrewsbury to allow ground investigation works to be carried out to inform and shape future stages of development at the site. The scope of works includes general site clearance, removal of asbestos and the partial demolition to slab level of unit 2, units 44-48 and a walkway canopy. A 2.4m high hoarding would be erected to the rear of units 44-48 post demolition while the south-western elevation of unit 2 would be retained.

2.0 SITE LOCATION/DESCRIPTION

2.1 The Riverside Shopping Centre is within the Shrewsbury Conservation Area and located to the northern end of the town centre. Details of the three units to be demolished are as follows:

- Unit 2 is a brick, flat roofed, former police station to southern side of the shopping centre; the south-western elevation is adjacent to the highway known as 'Raven Meadows'
- The brick built, pitched roof rear section of retail units 44-48 is two storey in height and sits between two gabled walls that would be retained. The rear of units 44-48 faces a car park across which is the rear of the Premier Inn Hotel
- The walkway canopy extends from the eastern side of the shopping centre where it faces the side elevation of the Raven Meadows multi-storey car park into the core of the shopping centre. The canopy covers a footprint of approximately 230sqm and is formed of steel columns and a glazed roof.

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

'The Town Council raise no objections to this application, but it was noted that there was a lot of street furniture in this location and could it 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 Demolition Traffic Management Plan

4.1.3 SC Regulatory Services: No Objection

4.1.4 Environment Agency: No Objection

'The current application proposes a relatively minor programme of demolition, which

presents an insignificant change in building footprint and we therefore raise no concern over flood risk in respect of this application'

4.1.5 **SC Trees: No Objection**

4.1.6 **SC Conservation: No Objection**

4.1.7 **SC Ecology: No Objection**

Planning Officer comment: Conditions were initially recommended relating to the submission of a report by an ecological clerk of works and a Construction Environmental Management Plan condition but following further discussion with the Planning Officer, it was agreed that the minor scale of the works would not warrant the imposition of these conditions.

4.1.8 **SC Archaeology: No Objection**

4.1.9 **Historic England: No Comment**

4.1.10 **SUDS: No Objection**

4.2 **- Public Comments**

4.2.1 At the time of writing this report, one public comment has been received which though not submitted as a formal objection raised the following concerns:

- demolition taking place with no deliverable plans in place on what succeeds it
- the existence of a robust post demolition plan so the site is still utilised in some fruitful way

5.0 **THE MAIN ISSUES**

- Principle of development
- Character and Appearance
- Impact on Shrewsbury Conservation Area
- Other Matters

6.0 **OFFICER APPRAISAL**

6.1 **Principle of Development**

6.1.1 The demolition works would represent very minor development which would enable limited ground investigation works in support of the future redevelopment of the Riverside area of Shrewsbury Town Centre which is identified as a key priority of Core Strategy policies CS2 and CS15. The redevelopment of Riverside is also classed as a strategic development project as part of the council's Big Town Plan which is material consideration in decision making. Overall, the principle of the works is deemed acceptable in principle.

6.2 **Character and Appearance**

6.2.1 The structures to be demolished are not considered worthy of retention due to their limited contribution to the visual character of the immediate area. The proposed Post

Demolition Plan would furthermore ensure their removal would not appear unduly prominent within the streetscene and would not harm the character of the established urban fabric of this area. The development would therefore comply with policies CS2, CS6, MD2 and MD13 of the Local Plan.

6.3 Impact on Shrewsbury Conservation Area

6.3.1 The Riverside Shopping Centre is comprised of later 20th Century commercial buildings and is located within the Shrewsbury Conservation Area and the Town Centre Special Character Area. The partial demolition of the structures would cause no harm to heritage assets given their limited visual and historic value and as there are no historic or listed buildings affected directly or indirectly by these works. The development would therefore comply with policies CS6, CS17, MD2 and MD13 of the Local Plan and section 16 of the NPPF.

6.4 Other Matters

6.4.1 The minor scale of the demolition works would not be considered likely to unduly impact the free flow of traffic along Raven Meadows and no objection was raised by SC Highways. The applicant has agreed to submit a Demolition Traffic Management Plan (DTMP) prior to the commencement of development following a request by SC Highways and this will be secured by condition.

6.4.2 There are no concerns raised regarding disturbance of archaeology or land contamination as the scope of the demolition work is to slab level only. A condition would be imposed to ensure works are undertaken in accordance with the recommendations of the Demolition Method Statement which seeks to ensure that commitments to health, safety and environmental protection are adhered to.

6.4.3 The council's Ecologist reviewed the submitted Preliminary Ecological Appraisal and Preliminary Roost Assessment including Bat and Otter Surveys (Arbtech, September 2022) and confirmed they had no concerns with the level of survey work that had been undertaken.

6.4.4 The council's Drainage Team and the Environment Agency concurred that the proposed raised no concern over flood risk.

7.0 CONCLUSION

7.1 The proposals are considered acceptable and the recommendation is that planning approval be granted, subject to appropriate conditions to minimise disruption during the demolition process and to ensure that the recommendations of the Demolition Method Statement are adhered to.

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.

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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:

CS2 - Shrewsbury Development Strategy
CS6 - Sustainable Design and Development Principles
CS15 - Town and Rural Centres
CS17 - Environmental Networks
MD2 - Sustainable Design
MD13 - Historic Environment

RELEVANT PLANNING HISTORY:

PREAPP/11/01119 Proposed redevelopment of existing Shopping Centre PREAIP 7th June 2011
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 PDE
SA/84/0765 Part demolition of Nos. 4, 6a and 7 Pride Hill, demolition of Charles Clark Garage. The Beaconsfield Club, MEB Sub station, Raven Meadows, part demolition of sections of Riverside Centre (comprising the Police Station and Allied Carpets). Demolition of Lloyds Bank Chambers, Roushill Bank. All in connection with redevelopment to provide major store and 35 no. shop units with ancillary services and office space and alterations to and formation of new vehicular and pedestrian accesses (Amended plans received dated 18/5/84). (Police Station part Riverside Centre Raven Meadows Shrewsbury). WDN 31st August 1984
SA/87/0977 Installation of a new shopfront. PERCON 29th October 1987
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/88/0140 Installation of a new shopfront. PERCON 14th April 1988
SA/88/0124 Installation of a new shop front for K Shoe Shops. PERCON 17th March 1988
SA/88/0123 To erect and display 2 No. externally illuminated shop signs for K Shoe Shops. PERCON 17th March 1988
SA/88/0114 Installation of a new shopfront for Olympus Sport International. PERCON 17th March 1988
SA/88/0113 To erect and display an internally illuminated shop sign for Olympus Sport International. PERCON 17th March 1988
SA/88/0069 Erect and display an internally illuminated shop sign for 'Tie Rack'. PERCON 17th March 1988
SA/88/0004 Installation of new shop front. PERCON 18th February 1988
SA/88/0003 To erect and display an illuminated advertisement displaying the word TORQ with illuminated letters, 200mm in height. PERCON 17th March 1988
SA/87/1205 Installation of new shopfront and internal fittings. PERCON 21st January 1988
SA/87/1204 To erect and display sign 1.5m by 0.6m green and grey with white lettering which will be illuminated displaying the word "Clarks". PERCON 21st January 1988

SA/87/1160 Construction of new shopfront (as per amended plans received 6th December 1987). PERCON 21st January 1988

SA/87/1029 Erect and display individually illuminated fascia letters (2 No. fascias) 2 No. illuminated signs fixed to column returns, plus lettering above doorway stating F. Hinds. PERCON 26th November 1987

SA/87/1028 Installation of a shop front. PERCON 26th November 1987

SA/87/0909 Erect and display an internally illuminated fascia sign stating "NEXT". PERCON 29th October 1987

SA/87/0908 Installation of a new shop front with internal alterations. PERCON 29th October 1987

SA/87/0907 Erect and display fascia signs - letters only internally illuminated stating "W H SMITH". PERCON 29th October 1987

SA/87/0906 Installation of new shop front and internal fitting out. PERCON 29th October 1987

SA/87/0587 Erect and display illuminated fascia lettering to Pride Hill and internal mall elevations stating "SAXONE". PERCON 30th July 1987

SA/87/0586 Installation of a new shop front. PERCON 30th July 1987

SA/87/0347 Erect and display an externally illuminated double sided projecting C & A vignette hanging sign. WDN 16th April 1987

SA/87/0346 Erect and display an externally illuminated hanging C & A vignette sign. PERCON 4th June 1987

SA/87/0345 Erect and display an externally illuminated surface mounted sign consisting of a C & A vignette. PERCON 26th November 1987

SA/87/0344 Erect and display an externally spot lit surfaced fixed vignette sign. PERCON 4th June 1987

SA/86/1096 Erect and display an internally illuminated double sided hanging vignette sign (1000mm x 735mm) stating C & A. REFUSE 15th January 1987

SA/86/1095 Erect and display an internally illuminated single sided vignette sign (2280mm x 1680mm) stating C & A. REFUSE 15th January 1987

SA/86/1094 Erect and display an internally illuminated projecting sign consisting of one number C & A vignette and five number rainbow units. REFUSE 15th January 1987

SA/86/1093 Erect and display an internally illuminated surface mounted C & A vignette sign with five number rainbow units. REFUSE 15th January 1987

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/84/0113 Retail development to indicate part demolition to provide major store and 35 shop units with ancillary services and office space and alterations to and formation of new vehicular and pedestrian accesses. For Bardanger Properties plc. (Police Station, Part Riverside Centre, Ravens Meadows Shrewsbury). WDN 20th March 1984

SA/84/0300 Internal alterations to resite existing ground floor take-away shop with ancillary accommodation onto 1st floor and use ground floor as a new shop unit with the installation of 2 no. new shop windows and entrance doorways. PERCON 1st May 1984

SA/82/0463 Erection of a glazed canopy to loading bay. PERCON 27th July 1982

SA/78/1212 Erect and display an internally illuminated fascia sign stating 'QUAY FISHERIES' with motif each end. PERCON 19th December 1978

SA/78/1203 Change of Use from take-away food shop to retail food shop. PERCON 19th December 1978

SA/78/1202 Use of kitchen store as a take-away food shop and alterations to restaurant entrance. PERCON 19th December 1978

SA/78/1201 Erect and display an internally illuminated fascia sign stating "CHANTICLEER CHINESE RESTAURANT". PERCON 19th December 1978

SA/79/0075 Installation of a new shop front. PERCON 19th June 1979

SA/79/0076 Erect and display an internally illuminated fascia sign. REFUSE 19th June 1979

SA/82/0095 Installation of a new shop front and entrance door. PERCON 27th April 1982

SA/82/0094 Erect and display a non-illuminated fascia and a double sided projecting box sign (750mm x 500mm) stating 'CHARLES CLARK' with logo and 'UNIPART' on box sign. PERCON 27th April 1982

SA/81/0026 Replacement of side entrance door with stainless steel frame and doors. PERCON 10th February 1981

SA/88/0067 Installation of a new shopfront. PERCON 17th March 1988

SA/88/0066 To erect and display an internally illuminated suspended shop sign stating 'Gullivers' 160cm x 55cm. PERCON 17th March 1988

SA/88/0065 Installation of a new shopfront. PERCON 17th March 1988

SA/88/0021 To erect and display three illuminated suspended board signs 1.8m x 1m with logo "Pride Hill Centre" at Raven Meadows, Roushill Bank and Pride Hill. PERCON 18th February 1988

SA/88/0018 Installation of a new shopfront. PERCON 18th February 1988

SA/88/0017 To erect and display an illuminated board sign 140cm x 22.5cm showing the "Alexon" logo. PERCON 17th March 1988

SA/75/0270 To erect single storey flat roofed enquiry/left luggage office with waiting facilities and toilet. PERCON 13th May 1975

SA/81/1000 To use part of land as a temporary car park. REFUSE 15th December 1981

SA/77/0723 Use of existing building for storage purposes. PERCON 1st September 1977

SA/78/0846 To continue the use of existing building for storage purposes. PERCON 19th September 1978

SA/76/0005 To provide hatted accommodation for temporary l'nding library (5 years) with pedestrian access and vehicular access only for library vans. NOOBJC 12th February 1976

SA/80/0813 Renewal of 76/5 dated 10/2/76 to continue to use site for temporary accommodation for Branch Library with pedestrian access and vehicular access for library vans only for a further period of 3 years. For Leisure Activities Committee. NOOBJC 30th September 1980

SA/92/1159 Installation of a new shopfront. For Bookscene Ltd. PERCON 9th December 1992

SA/92/1158 Erect and display an internally illuminated sign. For Bookscene Ltd. PERCON 9th December 1992

SA/92/0826 Erect and display 1 no. logo sign externally illuminated by spotlights. For Shell Pensions Trust Ltd. PERCON 16th September 1992

SA/92/0547 Provision of temporary male toilet prefabricated unit (to be located in existing vacant shop unit) to replace existing first floor male toilets during proposed refurbishment works to Riverside Centre. For Royal Insurance Asset. PERCON 8th July 1992

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/81/0567 Erect and display one set of internally illuminated individual letters mounted on a non illuminated background panel, letters to replace existing stating 'MIDLAND BANK'. PERCON 7th July 1981

SA/86/1044 Erect and display illuminated letters on existing fascia to canopy stating 'Mercentile Credit'. PERCON 18th December 1986

SA/88/1366 Erection of an externally illuminated name board over doorway stating "General Guarantee". PERCON 12th January 1989

SA/91/1325 Installation of a new shopfront. For Mr M Frances. PERCON 20th December 1991

SA/91/1302 Retention of roof top plant, together with erection of acoustic/visual screens. For John Laing Developments Ltd. REFUSE 29th January 1992

SA/91/1098 Retention of roof-top plant together with erection of acoustic screens. For John Laing Developments Ltd. REFUSE 29th January 1992

SA/91/0989 Installation of a new shopfront. For Shell Pensions Trust Ltd. PERCON 9th October 1991

SA/91/0983 Installation of a new shop front. For Wilkinson Group of Companies. PERCON 9th October 1991

SA/91/0935 Erect and display an internally illuminated fascia sign. For Burton Group PLC. PERCON 18th September 1991

SA/91/0364 Change of use from A1 to A3. PERCON 22nd May 1991

SA/91/0274 Erect and display a shopsign. PERCON 11th April 1991

SA/91/0273 Installation of a new shopfront. PERCON 11th April 1991

SA/90/1305 Proposed new shopfront. PERCON 30th January 1991

SA/90/1114 Installation of a new shop front. PERCON 22nd October 1990

SA/90/1113 Installation of a new shop front. PERCON 22nd October 1990

SA/90/1112 Installation of a new shop front. PERCON 22nd October 1990

SA/90/0902 Erect and display a non-illuminated sign stating Charles Darwin Centre. REFUSE 19th September 1990

SA/90/0852 Installation of a new shop front. PERCON 24th August 1990

SA/90/0365 Erect and display an illuminated shop fascia sign and internally mounted neon box sign. PERCON 12th April 1990

SA/90/0017 Erect and display a shop sign. PERCON 22nd January 1990

SA/90/0016 Installation of a new shop front. PERCON 22nd January 1990

SA/90/0009 Installation of a new shopfront. PERCON 22nd January 1990

SA/90/0008 Erect and display an internally illuminated shop sign. PERCON 22nd January 1990

SA/89/1491 Illumination of fascia sign and hanging sign. REFUSE 17th January 1990

SA/89/1209 Installation of a new shop front. PERCON 25th October 1989

SA/89/1169 Installation of a new shopfront. PERCON 25th October 1989

- SA/89/1115 Erect and display an internally illuminated shop sign. PERCON 28th September 1989
- SA/89/1089 Erect and display an internally illuminated fascia sign. PERCON 28th September 1989
- SA/89/1088 Installation of a new shop front. PERCON 28th September 1989
- SA/89/1087 Installation of a new shop front. PERCON 28th September 1989
- SA/89/1086 Erect and display an internally illuminated fascia sign. PERCON 28th September 1989
- SA/76/0729 Construction of a footbridge across the River Severn from Frankwell Car Park to Riverside Shopping Centre. NOOBJC 20th October 1976
- SA/90/0728 Erect and display fascia signs. PERCON 1st August 1990
- SA/90/0729 Erection of ballustrade. PERCON 1st August 1990
- SA/84/0490 Alterations to existing entrance way to include the provision of new steps, canopy and doorway. PERCON 14th June 1984
- SA/84/0415 Erect and display an internally illuminated projecting box sign and an internally illuminated fascia sign stating "PARK LANE". PERCON 24th May 1984
- SA/75/0095 To erect and display two 1.5 tier trilateral non-illuminated advertisement stands incorporating litter bins in lower tier. REFUSE 25th March 1975
- SA/79/0260 Erect and display three internally illuminated fascia signs each stating .. "PACEMAKER SPORTS". PERCON 1st May 1979
- SA/81/0969 Erect and display internally illuminated signs 2 no. shop fascias and 1 no. projecting box sign (600mm x 600mm) stating 'PETER DOMINIC' with motif. PERCON 24th November 1981
- SA/84/0755 Use existing vacant shop as dry cleaners and shoe repair shop. PERCON 31st August 1984
- SA/86/1213 Erect and display an internally illuminated projecting sign stating 'Rayner Opticians' (approximately 800mm x 546mm). PERCON 12th February 1987
- SA/89/0029 Erect and display internally illuminated fascia sign stating 'Thoughts' (Retrospective). PERCON 13th April 1989
- SA/88/1065 Erect and display an illuminated shop fascia sign and projecting sign. PERCON 2nd November 1988
- SA/88/1064 Installation of a new shopfront. PERCON 28th October 1988
- SA/88/1016 Erect and display non illuminated fascia sign stating "Thoughts" and 2 No. logos. PERCON 6th October 1988
- SA/88/0729 New shop front entrance and display window. PERCON 28th July 1988
- SA/88/0728 Erect and display an illuminated shop fascia sign stating "Mark One". PERCON 28th July 1988
- SA/91/0271 Use as a childrens leisure centre and creche with integral toy, sweet shop and cafe. PERCON 24th April 1991
- SA/80/0543 Use of land for commercial purposes to include offices and/or retail use. PERCON 15th July 1980
- 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/84/0782 Erect and display various internally illuminated shop sign stating 'FOSTERS'. PERCON 20th September 1984
- SA/77/0882 Installation of a new shop front. PERCON 11th October 1977

SA/77/0832 Use of existing shop as a bakery and shop for the sale of hot bakery products. PERCON 11th October 1977

SA/77/1109 Erection of a kiosk to be used for the sale of ice-cream and sweets. PERCON 10th January 1978

SA/78/0427 Erection of a kiosk for the sale of Ice Cream and Sweets. PERCON 23rd May 1978

SA/88/0150 Erect and display an illuminated logo box sign stating "Principles for Men". PERCON 14th April 1988

SA/88/0410 Erect and display four illuminated advertisement signs. PERCON 2nd June 1988

SA/88/0393 Installation of shopfront. PERCON 2nd June 1988

SA/88/0312 Installation of shopfront. PERCON 2nd June 1988

SA/88/0310 Installation of shop front. PERCON 2nd June 1988

SA/88/0309 Erect and display 2 No. internally illuminated fascia signs. PERCON 2nd June 1988

SA/88/0158 Erect and display "Athena" sign on each side of projecting fascia and internally illuminated acrylic yellow squares. PERCON 14th April 1988

SA/92/1167 Installation of a new shopfront. For Home 2000 Ltd. PERCON 30th December 1992

SA/92/1030 Change of use of 3 shop units into a single retail catering unit (retrospective). For Royal Life Insurance Ltd. PERCON 27th October 1992

SA/92/0173 Erect and display a non-illuminated fascia sign. For Coral Unit & Grange Business Park. PERCON 25th March 1992

SA/91/1234 Erect and display non-illuminated fascia. For Coral Estates. PERCON 11th December 1991

SA/91/1116 Installation of a new shopfront. For Coral Estates. PERCON 20th November 1991

SA/91/0671 Installation of a satellite antenna on roof. PERCON 31st July 1991

SA/88/0157 Proposed illuminated shop fascia sign stating "Our Price Music". PERCON 14th April 1988

SA/88/0156 Proposed shopfront. PERCON 14th April 1988

SA/88/0155 Erect and display rear illuminated "Oasis" logo box sign and two fret cut signs into timber fascia stating "Oasis". PERCON 14th April 1988

SA/88/0154 Proposed shopfront. PERCON 14th April 1988

SA/88/0153 Proposed shopfront and interior shopfitting. PERCON 14th April 1988

SA/89/0767 Installation of a new shopfront. PERCON 25th August 1989

SA/89/0702 Installation of a new shopfront. PERCON 25th August 1989

SA/89/0701 Erect and display an externally illuminated shop sign. PERCON 25th August 1989

SA/89/0621 Erect and display an internally illuminated shop sign. PERCON 17th July 1989

SA/89/0620 Installation of a new shopfront. PERCON 6th July 1989

SA/89/0644 Erect and display an illuminated hanging sign and illuminated fascia signs. PERCON 17th July 1989

SA/89/0426 Installation of a new shopfront. PERCON 6th June 1989

SA/89/0425 Erect and display a shop sign and projecting sign with internally illuminated individual letters. PERCON 8th June 1989

SA/89/0141 Erect and display shop signage to be externally illuminated by projecting picture lights. PERCON 5th May 1989

SA/89/0140 Installation of a new shopfront. PERCON 5th May 1989

SA/89/0645 Installation of a new shopfront. PERCON 7th July 1989

SA/89/0506 Erect and display an internally illuminated shop sign. PERCON 8th June 1989
SA/89/0505 Installation of a new shop front. PERCON 6th June 1989
SA/88/0756 Change of use from Class A1 retail to Class A3 licensed family restaurant with ancillary take-away facilities. PERCON 5th September 1988
SA/87/0820 Erect and display lettings signboard non-illuminated. (A retrospective application). PERCON 1st October 1987
SA/87/0819 Erect and display lettings sign board non-illuminated. (A retrospective application). PERCON 1st October 1987
SA/87/0654 Erection of a contractors site signboard for the display of construction team details. PERCON 4th September 1987
SA/87/0653 Erection of a contractors site signboard for the display of construction team details. PERCON 4th September 1987
SA/86/1052 Land to be used for off loading material and as crane pick-up point. PERCON 18th December 1986
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
SA/79/1171 Erect and display an internally illuminated shop sign (5' x 1'11" x 6.75") stating 'RAYNER OPTICIAN'. PERCON 18th December 1979
SA/92/0380 Conversion of existing shop unit no. 29, adjacent corridor and disabled (male) toilet at ground floor and male public toilet at first floor to form ground floor bakery and first floor storage and staff facilities. For Royal Insurance Asset Management on behalf of Royal Life Insurance Ltd. PERCON 6th May 1992
SA/80/1122 Erect and display an internally illuminated projecting box sign (2'6" x 1'6" x 6") stating 'CARPETS WARING & GILLOW'. PERCON 22nd December 1980
SA/80/0811 Erect and display 4 internally illuminated fascia signs stating "ALLIED CARPETS"
a) 3.658m x 672mm b) 2.940m x 560mm c) 5.486m x 560mm d) 5.486m x 584mm all approximate sizes. PERCON 23rd September 1980
SA/88/1161 Installation of satin anodised aluminium shutters. PERCON 28th October 1988
SA/88/1160 Erect and display a fascia sign to be illuminated by floodlighting. PERCON 2nd November 1988
SA/78/0507 Erect and display individually illuminated lettering stating "TRIDENT SUPERSTORE" and non-illuminated lettering stating "TRIDENT". PERCON 20th June 1978
SA/91/0585 Change of use from retail unit to a licensed betting office. For Coral Racing. PERCON 10th July 1991

SA/92/0825 Erect and display 3 no logo signs externally illuminated by spotlights. For Shell Pensions Trust. PERCON 16th September 1992

SA/92/0147 Retention of roof top plant together with erection of acoustic visual screens. For Shell Pensions Trust Ltd. PERCON 18th March 1992

SA/92/0146 Retention of roof top plant together with erection of acoustic/visual screens. PERCON 24th July 1992

SA/92/0119 Installation of a new shopfront. For Shell Pensions Trust Ltd. PERCON 4th March 1992

SA/92/0001 Installation of a new shopfront. For Finerose Ltd. PERCON 5th February 1992

SA/91/1326 Erect and display an internally illuminated fascia sign. For Mr M Frances. PERCON 20th December 1991

SA/88/0246 Erect and display an illuminated fascia sign. PERCON 5th May 1988

SA/88/0245 Erect and display an illuminated fascia sign. PERCON 5th May 1988

SA/88/0212 Proposed new shopfront. PERCON 14th April 1988

SA/88/0152 Erect and display an illuminated fascia sign stating "Curry's". PERCON 14th April 1988

SA/88/0151 Proposed shopfront, new staff staircase and general refurbishment. PERCON 14th April 1988

SA/89/1055 Erect and display an internally illuminated static shop sign. PERCON 28th September 1989

SA/89/1054 Installation of a new shop front. PERCON 28th September 1989

SA/89/0944 Installation of a new shopfront. PERCON 29th September 1989

SA/89/0943 Erect and display an internally illuminated shop sign. PERCON 29th September 1989

SA/89/1116 Installation of a new shop front. PERCON 28th September 1989

SA/89/0930 Erect and display an internally illuminated fascia sign. PERCON 6th September 1989

SA/89/0929 Installation of a new shopfront. PERCON 6th September 1989

SA/89/0886 Installation of a new shopfront. PERCON 6th September 1989

SA/89/0887 Erect and display an illuminated fascia sign. PERCON 6th September 1989

SA/89/0875 Installation of a new shop front. PERCON 6th September 1989

SA/89/0874 Erect and display an internally illuminated static shop sign and projecting sign. PERCON 6th September 1989

SA/89/0846 Erect and display an internally illuminated fascia sign. PERCON 6th September 1989

SA/89/0845 Installation of a new shopfront. PERCON 6th September 1989

SA/89/0776 Erect and display an internally illuminated shop sign stating "Rumbelows". PERCON 25th August 1989

SA/89/0775 Installation of a new shopfront stating "Rumbleows". PERCON 25th August 1989

SA/89/0768 Erect and display an internally illuminated shop sign. PERCON 25th August 1989

SA/85/0990 Erection of a building to be used as doctors surgery with the formation of new pedestrian access. REFUSE 13th February 1986

SA/86/0215 Erection of a building to be used as doctors' surgery with the formation of new pedestrian access. PERCON 10th April 1986

SA/92/1175 Formation of a new vehicular access onto Roushill to serve one existing car space. For Riverside Medical Practice. PERCON 30th December 1992

SA/88/0255 Installation of shopfront and shopfitting works. PERCON 5th May 1988
SA/88/0248 Proposed illuminated shop fascia sign. PERCON 5th May 1988
SA/88/0247 Proposed new shopfront. PERCON 5th May 1988
SA/88/0211 Proposed hanging room window signs with confetti logo sign written across proposed roller shutter door. PERCON 14th April 1988
SA/88/0180 Erect and display two No. flagpoles to roof. PERCON 5th May 1988
SA/88/0159 Proposed shopfront. PERCON 14th April 1988
SA/91/0827 Erect and display an internally illuminated fascia sign. For Zales Jewellers Ltd. PERCON 28th August 1991
SA/91/0826 Erect and display an illuminated fascia sign. For Applewoods. PERCON 28th August 1991
SA/91/0825 Installation of a new shop front. PERCON 28th August 1991
SA/91/0781 Retrospective application for retention of external fire escape stair and roof plant. PERCON 30th October 1991
SA/91/0670 Erect and display an internally illuminated fascia sign. For Master Glass Engraving Ltd. PERCON 31st July 1991
SA/91/0645 Installation of a new shopfront. For Masterglass Engraving Ltd. PERCON 17th July 1991
SA/89/1475 Erect and display fascia signs. PERCON 14th February 1990
SA/89/1474 Installation of a new shopfront. PERCON 14th February 1990
SA/89/1403 Erect and display an internally illuminated shop sign. PERCON 20th December 1989
SA/89/1402 Installation of a new shop front. PERCON 20th December 1989
SA/89/1438 Installation of a new shopfront. PERCON 20th December 1989
SA/89/1437 Erect and display internally illuminated box sign stating 'Principles' and 2 No. nine square logos. PERCON 20th December 1989
SA/89/1355 Installation of a new shop front. PERCON 8th December 1989
SA/89/1354 Erect and display internally illuminated fascia shop signs. PERCON 8th December 1989
SA/89/1308 Erect and display a shopsign. PERCON 9th November 1989
SA/89/1234 Erection of a shop sign stating 'Birthdays'. PERCON 25th October 1989
SA/89/1226 Erect and display shop signage. PERCON 25th October 1989
SA/89/1225 Erect and display a shop sign. PERCON 25th October 1989
SA/90/0851 Erect and display a back illuminated shop fascia sign and internally mounted neon box sign. PERCON 24th August 1990
SA/90/0640 Installation of a new shopfront. PERCON 11th July 1990
SA/90/0639 Erect and display an internally illuminated fascia sign. PERCON 11th July 1990
SA/90/0563 Erect and display an internally illuminated fascia sign. PERCON 11th July 1990
SA/90/0562 Installation of a new shop front. PERCON 11th July 1990
SA/90/0387 Installation of a new shopfront. PERCON 24th May 1990
SA/85/0458 Demolition and redevelopment of rear portion of building to suit new shopping development. For John Laing Developments Ltd. WDN 21st June 1985
SA/85/0457 Demolition and redevelopment of rear portion of building to suit new shopping development. For John Laing Developments Ltd. WDN 21st June 1985
SA/85/0433 Development and re-development 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 lane together with related highway improvements to junction of Raven Meadows with Smithfield Road and formation of new vehicular and pedestrian accesses (Amendment to previously approved scheme to secure access alterations). WDN 21st June 1985

SA/84/1014 Erect and display an internally illuminated neon sign 2250mm x 1700mm and a double sided non illuminated projecting sign 1400mm x 1600mm (to be illuminated by spotlights) stating 'TOP MAN'. REFUSE 10th January 1985

SA/85/0417 Alterations to existing building to provide new shopfronts onto proposed shopping development entrance hall. For John Laing Developments Ltd. WDN 23rd May 1985

SA/90/0246 Erect and display a shop fascia sign. REFUSE 25th April 1990

SA/76/0897 Erect 12 element Yagi Aerial (30ft guyed mast). PERCON 16th December 1976

SA/74/0892 Display of internally illuminated fascia sign. PERCON 14th January 1975

SA/85/0068 Erect and display an internally illuminated fascia sign with solid returns and a non-illuminated projecting sign (1000 x 1200mm) stating 'TOP SHOP' in accordance with our drawing 2022/TS/002/Rev B. PERCON 21st March 1985

SA/84/0823 Partial demolition of Repository and adjacent warehouse and erection of new gable end facades to replace existing. PERCON 16th November 1984

SA/98/0793 Change of use to insurance shop, A2. PERCON 15th September 1998

SA/98/0177 Erect and display an internally illuminated sign. PERCON 29th April 1998

SA/98/0121 Erect and display a non illuminated double sided sign. PERCON 18th March 1998

SA/97/1188 Erect and display an internally illuminated sign. REFUSE 22nd January 1998

SA/97/1052 Erect and display a non illuminated fascia sign. PERCON 3rd December 1997

SA/97/0254 Erect and display 2 externally illuminated hanging signs. REFUSE 16th April 1997

SA/96/1156 Erect and display one internally illuminated projecting sign. PERCON 29th January 1997

SA/96/1047 Erect and display various illuminated and non illuminated signs on the Pride Hill elevation (entrance canopy), Raven Meadows elevation (various locations), Riverside elevation (various locations) and hanging banners. SPLIT 9th January 1997

SA/96/0736 Provision of additional retail space at first floor level in conjunction with existing ground floor areas; new fire escape tower and screen gates to service yard. PERCON 27th November 1996

SA/96/0085 Erect and display an internally illuminated fascia sign. PERCON 21st February 1996

SA/96/0084 Installation of a new shopfront. PERCON 13th March 1996

SA/95/0984 Erect and display a projecting sign and fascia sign. PPNREQ 28th September 1995

SA/95/0982 Erect and display 2 internally illuminated box signs. (Retrospective) SPLIT 4th January 1996

SA/95/0681 Erect and display 2 non illuminated signs and a hanging sign. SPLIT 22nd August 1995

SA/95/0690 Erect and display an externally illuminated sign and provision of illumination to existing sign. PERCON 23rd August 1995

SA/95/0582 Installation of 4 new windows at first floor level. PERCON 26th July 1995

SA/95/0439 Alterations to existing access from Frankwell footbridge. PERCON 14th June 1995

SA/95/0258 Alterations to entrance including glazed canopy, retractable entrance doors, new surfacing, lighting and shopfront. PERCON 27th April 1995

SA/95/0270 Erect and display various illuminated signs to entrance. SPLIT 27th April 1995
SA/94/1354 Erect and display an internally illuminated entrance canopy sign. PERCON 11th September 1995
SA/94/1018 Installation of feature clock to highway outside entrance to Darwin Shopping Centre to Pride Hill, including alterations to paving material to highway and entrance to Darwin Shopping Centre and uplighting to elevations nos. 19 Pride Hill and SU22 Darwin Centre. REFUSE 17th November 1994
SA/93/1254 Installation of a new louvre on elevation to Ravens Meadow car park to match existing louvres. PERCON 12th January 1994
SA/93/0949 Installation of a new shopfront. PERCON 5th November 1993
SA/93/1030 Change of use to A3 use (food and drink). PPNREQ 9th November 1993
SA/93/0954 Installation of a new shopfront. PERCON 5th November 1993
SA/93/0951 Erect and display an internally illuminated fascia sign. PERCON 15th October 1993
SA/93/0911 Installation of shopfront to internal mall frontage only. PERCON 5th November 1993
SA/93/0910 Display of non illuminated fascia signs to Smithfield Road and Frankwell link bridge and internally illuminated fascia signs to mall frontage. PERCON 12th November 1993
SA/93/0873 Erect and display an internally illuminated fascia sign. PPNREQ 22nd September 1993
SA/93/0760 Change of use from A1 (retail) to coffee shop A3 (food and drink). PERCON 6th October 1993
SA/93/0530 Alteration to entrance doors, erection of safety rails and alteration to glazed canopy. PERCON 15th December 1993
SA/93/0381 Erect and display various internally illuminated and non illuminated fascia, projecting and freestanding signs. PERCON 9th June 1993
SA/01/0303 To remove 1 no. Whitebeam and 1 no. Willow leafed Pear tree in the Riverside Mall, Pride Hill Shopping Centre, Shrewsbury T.P.O. REFUSE 4th May 2001
SA/01/0018 Erect and display 2 no. externally illuminated banners (each 2830 x 725 mm) with supports to Pride Hill elevation. REFUSE 27th February 2001
SA/01/0053 Erect and display 18 no. flags in hanging basket brackets on the Darwin Shopping Centre. REFUSE 8th March 2001
SA/01/0050 Erect and display 4 no. flags in hanging basket brackets on the Pride Hill Centre. REFUSE 8th March 2001
SA/00/0948 Erection of 4 no. freestanding non-illuminated Public Information Pillars (3.4m high x 1.3m wide), one each at Smithfield Road and Raven Meadows, and two at Roushill. SPLIT 23rd November 2000
SA/00/0868 Erect and display 1 no. internally illuminated box sign. PPNREQ 26th July 2000
SA/06/1541/TRE To crown reduce 2 trees within Shrewsbury Conservation Area NOOBJC 30th November 2006
SA/02/1287/TPO Pruning of 1 no. Whitebeam and 1 no. Willowleaf Pear protected by SABC (Riverside Mall Pride Hill Centre) TPO 1994 PERCON 17th October 2002
SA/02/1032/ADV Erect and display 13 non-illuminated banner signs; 2 illuminated fascia signs; 7 non-illuminated fascia signs and 5 information/direction signs (amended description) SPLIT 11th September 2002

AGENDA ITEM

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Riverside Shopping Centre

Appeal

97/00543/REF Erect and display 2 externally illuminated hanging signs. DISMIS 24th October 1997

11. Additional Information

View details online: <http://pa.shropshire.gov.uk/online-applications/applicationDetails.do?activeTab=summary&keyVal=RUTE75TDH1O00>

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

Local Member

Cllr Nat Green

Appendices APPENDIX 1 - Conditions

APPENDIX 1

Conditions

1. The development hereby permitted shall be begun before the expiration of three years from the date of this permission.
Reason: To comply with Section 91(1) of the Town and Country Planning Act, 1990 (As amended).
2. The development shall be carried out strictly in accordance with the approved plans, drawings and documents as listed in Schedule 1 below.
Reason: For the avoidance of doubt and to ensure that the development is carried out in accordance with the approved plans and details.
3. Prior to the commencement of demolition works a Demolition Traffic Management Plan (DTMP) shall be submitted to and approved in writing by the Local Planning Authority; the DTMP shall remain in force for the duration of the demolition period.
Reason: In the interests of local amenity and highway and pedestrian safety.
4. The development hereby approved shall be carried out in full accordance with the approved Demolition Method Statement (written by Tetra Tech May 2023).
Reason: To safeguard the amenities of the locality in accordance with CS6 of the Core Strategy and MD2 of the SAMDev.

Informatives

1. INVASIVE SPECIES INFORMATIVE

Japanese knotweed is listed on Schedule 9 of the Wildlife and Countryside Act 1981 (as amended). It is a criminal offence to allow this species to be released into, or cause it to grow, in the wild and landowners should not allow it to spread onto neighbouring land, although they may not be obliged to remove or treat it on their own land.

Treatment of Japanese knotweed should be carried out by an experienced contractor and development cannot commence until the plant has been completely removed from the site.

Use of herbicides alongside water courses should only be undertaken by experienced, licensed contractors following advice from the Environment Agency.

Japanese knotweed is classed as a controlled waste and should be disposed of by an experienced contractor to an approved waste site in accordance with the Environmental Protection Act (Duty of Care) Regulations 1991).

BATS INFORMATIVE

All bat species found in the U.K. are protected under the Habitats Directive 1992, The Conservation of Habitats and Species (Amendment) (EU Exit) Regulations 2019 and the Wildlife and Countryside Act 1981 (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.

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.

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SCHEDULE OF APPEALS AS AT COMMITTEE 28 July 2023

LPA reference	22/05187/FUL
Appeal against	Appeal Against Refusal
Committee or Del. Decision	Delegated Decision
Appellant	Mr McGowan
Proposal	Erection of a self contained annex ancillary to main dwelling accommodating an integral two-bay garage to replace the existing two-bay garage and formation of vehicular access
Location	34 Kennedy Road Shrewsbury
Date of appeal	03.05.2023
Appeal method	Householder
Date site visit	
Date of appeal decision	
Costs awarded	
Appeal decision	

LPA reference	23/00572/FUL
Appeal against	Refusal
Committee or Del. Decision	Delegated
Appellant	Roberts
Proposal	Erection of two storey side extension (re-submission)
Location	36 Henley Drive, Oswestry
Date of appeal	13.06.2023
Appeal method	Fast track
Date site visit	
Date of appeal decision	
Costs awarded	
Appeal decision	

LPA reference	22/02097/DSA106
Appeal against	Appeal Against Refusal to Discharge Planning Obligation
Committee or Del. Decision	Delegated Decision
Appellant	Mr J Hurdley
Proposal	Discharge of Section 106 for planning application number SA/08/1518/F subject to the provision of an affordable housing contribution
Location	Caus Farm Vron Gate Shrewsbury
Date of appeal	02.03.2023
Appeal method	Written Representations
Date site visit	
Date of appeal decision	
Costs awarded	
Appeal decision	

LPA reference	23/00667/VAR
Appeal against	Appeal Against Conditions Imposed
Committee or Del. Decision	Delegated Decision
Appellant	Mr S Uddin
Proposal	Variation of Condition No. 2 attached to planning permission 21/04923/FUL dated 17 February 2022
Location	41 Torrin Drive Shrewsbury
Date of appeal	23.05.2023
Appeal method	Householder
Date site visit	
Date of appeal decision	
Costs awarded	
Appeal decision	

LPA reference	23/00889/FUL
Appeal against	Appeal Against Refusal
Committee or Del. Decision	Committee Decision
Appellant	Mr A McCormick
Proposal	Replacement windows to front elevation (Article 4)
Location	26 Montague Place Shrewsbury
Date of appeal	18.05.2023
Appeal method	Householder
Date site visit	
Date of appeal decision	
Costs awarded	
Appeal decision	

LPA reference	22/04230/FUL
Appeal against	Refusal
Committee or Del. Decision	Delegated
Appellant	Mr A Howell
Proposal	Conversion of agricultural barns to 6 dwellings, demolition of agricultural buildings, erection of garaging, creation of residential curtilage space and formation of a new farm access
Location	Barns East of Grange Farm, Peplow
Date of appeal	28.01.2023
Appeal method	Written Representations
Date site visit	
Date of appeal decision	
Costs awarded	
Appeal decision	

LPA reference	22/01176/FUL
Appeal against	Refusal
Committee or Del. Decision	Delegated
Appellant	Frontier Estates (MAR) Ltd
Proposal	Redevelopment of site to provide a circa 60 Bed care home (use class C2) including access, parking and landscaping
Location	Former Phoenix Garage Great Hales Street, Market Drayton
Date of appeal	05.06.2023
Appeal method	Hearing
Date site visit	
Date of appeal decision	
Costs awarded	
Appeal decision	

APPEALS DETERMINED

LPA reference	21/05534/FUL
Appeal against	Refusal
Committee or Del. Decision	Delegated
Appellant	Mrs C Sheehan
Proposal	Erection of replacement garden room extension, removal of modern brick chimney stack and replacement with a stainless steel flue (revised scheme)
Location	Big House, Station Road, Whittington
Date of appeal	03.01.2023
Appeal method	Written Representations
Date site visit	
Date of appeal decision	12.06.2023
Costs awarded	
Appeal decision	DISMISSED

LPA reference	21/05535/LBC
Appeal against	Refusal
Committee or Del. Decision	Delegated
Appellant	Mrs C Sheehan
Proposal	Erection of a replacement garden room extension, removal of modern brick chimney stack and replacement with a stainless steel flue affecting a Grade II Listed Building (revised scheme)
Location	Big House, Station Road, Whittington
Date of appeal	03.01.2023
Appeal method	Written Representations
Date site visit	
Date of appeal decision	12.06.2023
Costs awarded	
Appeal decision	DISMISSED

LPA reference	22/00608/FUL
Appeal against	Refusal
Committee or Del. Decision	Delegated
Appellant	Ms M Duncan
Proposal	Conversion of integral garage to residential accommodation with elevational alterations
Location	75 Thomas Penson Road, Gobowen, Oswestry
Date of appeal	14.02.2023
Appeal method	Written Representations
Date site visit	
Date of appeal decision	14.06.2023
Costs awarded	
Appeal decision	DISMISSED

LPA reference	22/03019/VAR
Appeal against	Appeal Against Conditions Imposed
Committee or Del. Decision	Delegated Decision
Appellant	Mr Ozturk
Proposal	Variation of Condition No. 6 attached to planning permission 18/05121/FUL dated 21 December 2018 to allow customer deliveries from 12:00 to 02:00
Location	Flaming Great 182 Monkmoor Road Shrewsbury
Date of appeal	09.12.2022
Appeal method	Written Representations
Date site visit	23.05.2023
Date of appeal decision	14.06.2023
Costs awarded	
Appeal decision	DISMISSED

LPA reference	22/04688/FUL
Appeal against	Refusal
Committee or Del. Decision	Delegated
Appellant	Mr Paul Mansell
Proposal	Erection of two storey extension with single storey element following partial demolition of garage and associated internal alterations (revised scheme)
Location	Breidden, 46 Woolston Road, West Felton, Oswestry
Date of appeal	2.6.2023
Appeal method	Written Representations
Date site visit	
Date of appeal decision	7.7.2023
Costs awarded	
Appeal decision	DISMISSED
LPA reference	22/03805/FUL
Appeal against	Refusal
Committee or Del. Decision	Delegated
Appellant	Mr D Wainwright
Proposal	Change of use from commercial use (Class E) at ground floor with self-contained residential units on the first, second and third floors to two self-contained residential units at ground floor and a 14 bedroom House in Multiple Occupation across the first, second and third floors.
Location	Oswald House 13 Oswald Road Oswestry
Date of appeal	17.04.2023
Appeal method	Written Representations
Date site visit	
Date of appeal decision	30.06.2023
Costs awarded	
Appeal decision	DISMISSED

LPA reference	22/04602/FUL
Appeal against	Appeal Against Refusal
Committee or Del. Decision	Delegated Decision
Appellant	Mr Jordanis Petridis
Proposal	Conversion of existing garage and extension to form a residential annexe to existing house
Location	48 Underdale Road Shrewsbury
Date of appeal	13.03.2023
Appeal method	Householder
Date site visit	12.06.2023
Date of appeal decision	04.07.2023
Costs awarded	
Appeal decision	DISMISSED

LPA reference	22/00865/OUT
Appeal against	Refusal
Committee or Del. Decision	Delegated
Appellant	Mr James McNally
Proposal	Outline planning permission (all matters reserved) for residential development
Location	Proposed Residential Development Land South Of Garside Close, Hengoed
Date of appeal	03.01.2023
Appeal method	Written Representations
Date site visit	
Date of appeal decision	17.07.2023
Costs awarded	
Appeal decision	DISMISSED

LPA reference	22/01201/FUL
Appeal against	Appeal Against Refusal
Committee or Del. Decision	Delegated Decision
Appellant	Mr J Kuschnir
Proposal	Erection of second storey to former cold store and two storey warehouse, installation of two rooflights to rear roofline, extension at first floor with formation of roof terrace
Location	Flat 46 Mardol Shrewsbury
Date of appeal	12.08.2022
Appeal method	Written Representations
Date site visit	24.05.2023
Date of appeal decision	12.07.2023
Costs awarded	
Appeal decision	ALLOWED

LPA reference	22/01522/LBC
Appeal against	Appeal Against Refusal
Committee or Del. Decision	Delegated Decision
Appellant	Mr J Kuschnir
Proposal	Works to facilitate the erection of second storey to former cold store and two storey warehouse, installation of two rooflights to rear roofline, extension at first floor with formation of roof terrace
Location	Flat 46 Mardol Shrewsbury
Date of appeal	27.10.2022
Appeal method	Written Representations
Date site visit	24.05.2023
Date of appeal decision	12.07.2023
Costs awarded	
Appeal decision	ALLOWED

LPA reference	22/02357/LBC
Appeal against	Appeal Against Refusal
Committee or Del. Decision	Delegated Decision
Appellant	John Kuschnir
Proposal	Construction of first floor rear extension, insertion of patio doors, formation of roof terrace and Installation of two roof lights
Location	Flat 46 Mardol Shrewsbury
Date of appeal	22.01.2023
Appeal method	Written Representations
Date site visit	24.05.2023
Date of appeal decision	12.07.2023
Costs awarded	
Appeal decision	ALLOWED

LPA reference	22/02424/FUL
Appeal against	Appeal Against Refusal
Committee or Del. Decision	Delegated Decision
Appellant	Mr J Kuschnir
Proposal	Construction of first floor rear extension, insertion of patio doors, formation of roof terrace and installation of two rooflights
Location	Flat 46 Mardol Shrewsbury
Date of appeal	20.01.2023
Appeal method	Written Representations
Date site visit	24.05.2023
Date of appeal decision	12.07.2023
Costs awarded	
Appeal decision	ALLOWED



Appeal Decisions

Site visit made on 30 March 2023

by M Woodward BA (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 12 June 2023

Appeal A: APP/L3245/W/22/3300863

Big House, Station Road, Whittington SY11 4DB

- 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 Mrs C Sheehan against the decision of Shropshire Council.
 - The application Ref 21/05534/FUL, dated 15 November 2021, was refused by notice dated 29 April 2022.
 - The development proposed was originally described as 'the demolition of existing modern rear 'garden rooms' and side extension 'utility roof' and erection of a replacement 'garden room' extension to incorporate a new roof over part of the 'utility section'. Removal of modern brick chimney stack and replacement with a stainless steel flue'.
-

Appeal B: APP/L3245/Y/22/3300865

Big House, Station Road, Whittington SY11 4DB

- The appeal is made under section 20 of the Planning (Listed Buildings and Conservation Areas) Act 1990 against a refusal to grant listed building consent.
 - The appeal is made by Mrs C Sheehan against the decision of Shropshire Council.
 - The application Ref 21/05535/LBC, dated 15 November 2021, was refused by notice dated 29 April 2022.
 - The works proposed were originally described as 'the demolition of existing modern rear 'garden rooms' and side extension 'utility roof' and erection of a replacement 'garden room' extension to incorporate a new roof over part of the 'utility section'. Removal of modern brick chimney stack and replacement with a stainless steel flue'.
-

Decision

Appeal A

1. The appeal is dismissed.

Appeal B

2. The appeal is dismissed.

Preliminary Matters

3. As confirmed on my site visit, some of the elements proposed for demolition have already been removed. Furthermore, an extension has been built in place of the conservatory which is smaller and differs in its design to that detailed on the submitted plans. However, I have based my decision on the submitted plans rather than what has taken place on the ground.

4. The appellant submitted amended plans with the appeal¹, which mainly reduces the overall footprint of the extension proposed in comparison with the scheme considered by the Council when they made their decision on the applications². The Council have confirmed that the amendments do not overcome their objections to the proposal. Given that the amendments do not substantially alter the scheme originally considered by the Council, I have accepted the amended plans and decided the appeals based on them.
5. In relation to appeal A, the appellant submitted a Bat Survey Report³ with the appeal. This report does not alter the nature of the proposal considered by the Council at planning application stage, and as the Council have had an opportunity to comment on this document as part of the appeal. I have accepted this document and I refer to it later in my decision.
6. As the proposal lies in the Whittington Conservation Area and relates to a Grade II listed building, I have had special regard to sections 16(2), 66(1) and 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 (the Act).

Main Issues

7. The main issues are:
 - Whether the proposal would preserve a Grade II listed building, 'The Big House' (Ref: 1054195), and any of the features of special architectural or historic interest that it possesses and whether it would preserve or enhance the character or appearance of the Whittington Conservation Area.
 - The effects of the proposal on protected species, having regard to bats (Appeal A only).

Reasons

Heritage

8. According to the list description, the Big House comprises a detached former farmhouse which dates from the 17th century. It consists of two distinct historic elements. The original hall range has a more delicate style with modest proportions with front and rear facing dormers of traditional materials and style. This is in comparison with the later, more expansive full height gabled element constructed in the early 19th century, designed to reflect the building's original timber framed style.
9. Despite several later modern rear extensions which obscure part of the building's rear elevation, the building's historic form remains legible. In particular, an elegant timber framed dormer and chimney stacks which project from an expansive traditional sloping roof contribute to the building's historic character. Given the above, I find that the special interest of the listed building, insofar as it relates to these appeals, to be primarily associated with the legibility of its historic form, traditional materials and architectural interest.

¹ Plan refs – KI 5716 2C and KI 5716 2D

² Plan ref – KI 5716 2B

³ Bat Survey Report Version 2 dated 16th May 2022

10. In terms of the Whittington Conservation Area (CA), I have not been provided with a relevant CA appraisal. Therefore, I have taken into account the evidence before me as well as the observations I made on my site visit. Insofar as this appeal is concerned, the CA is composed of buildings which vary in terms of their age, style and layout relative to the street. Nevertheless, historic buildings and green spaces still dominate visually, and it is the presence of these buildings with a traditional style, and the spacious verdant surroundings within which they sit, which define the significance of the CA.
11. Despite the presence of modern housing and car parking within close proximity, the large, detached appeal building retains an emphatic traditional style and is a prominent building within the CA, making an important contribution to it.
12. Listed buildings are safeguarded for their inherent architectural and historic interest irrespective of the extent of public views of the building. In this case, there would be limited visibility of the proposal from public vantage points. Be that as it may, it would appear as an overly prominent addition to the rear of the building. Specifically, the extension would occupy a significant proportion of the building's width, whilst projecting to the rear of it to create a large, bulky appendage. The sizable flat roof would emphasise the extension's overall blocky form and large scale, creating an incongruous feature.
13. The submitted Heritage Impact Assessment⁴ (HIA) provides photographic evidence of modern rear extensions and features which would be, or have recently been, removed. I recognise that they represent a modern phase of the building and do not form part of its historic fabric, and the Council raises no objection to their removal. Be that as it may, and despite the presence of a previous taller conservatory extension which obscured views of the building's roof, their combined footprint was significantly less, and they had a subservient appearance relative to the appeal building.
14. In contrast, the proposal would overwhelm the relatively modest proportions of the rear elevation. Despite its single-storey height and position below the main roof, it would be an unduly dominant addition which would detract from the appearance of the traditional roof and its features, including the original dormer, diminishing the building's historic architectural form and historic interest. Therefore, the existence of other rear extensions is not a justification for the appeal scheme as, overall, the impact of the proposal, having regard to the extent of demolition proposed, would be harmful.
15. Turning to the effect of the proposal on the significance of the CA, case law⁵ has established that proposals should be judged according to their effect on the CA as a whole and, unlike listed buildings, the significance of the CA is dependent upon how it is experienced. In this regard, the proposed extension would not affect the appreciation of this listed building from within the wider CA. Moreover, the proposal would not be significantly visible from public vantage points. Given this, and the extent and nature of the works proposed, there would only be limited prominence from the private domain. Therefore, despite the harm to the listed building, the proposal would not be detrimental to the CA, thus would preserve its significance.

⁴ Submitted by appellant - dated November 2021

⁵ South Oxfordshire DC v SSE & J Donaldson [1991] CO/1440/89

16. Paragraph 199 of the National Planning Policy Framework (the Framework) advises that when considering the impact of development on the significance of a designated heritage asset, great weight should be given to its conservation. Paragraph 200 goes on to advise that significance can be harmed or lost through the alteration or destruction of the asset and that any such harm should have a clear and convincing justification. Given my findings above relating to the harmful effect of the proposed extension, I find that the proposal would fail to preserve the special interest of the listed building. I consider the harm to be less than substantial in this instance but nevertheless of considerable importance and weight.
17. Under such circumstances, paragraph 202 of the Framework advises that this harm should be weighed against the public benefits of the proposal, which includes securing the optimal viable use of designated assets. In this regard, the proposed extension would provide additional internal living space for occupants of the dwelling and improve internal connectivity, as well as replacing existing structures which suffer from water ingress and poor thermal efficiency. I note that the appellant considered a range of other potential options and considers the proposal to be the most suitable taking into account practicality, building regulations and heritage. However, these benefits would be private and not public benefits, and the continued viable use of the building as a dwelling is not reliant on the proposal.
18. The proposal would also result in the removal of later, inappropriate additions to the listed building which harms its significance. However, having considered these as public benefits, I am not satisfied that collectively they would be sufficient to outweigh the harm that I have identified.
19. Given the above and in the absence of sufficient public benefit, I conclude that the proposal would fail, on balance, to preserve the special historic interest of the Grade II listed building. It would fail to satisfy the requirements of the Act, paragraph 199 of the Framework and would conflict with Policy CS6 of the Shropshire Local Development Framework: Adopted Core Strategy 2011 (Core Strategy) and Policy MD13 of the Shropshire Council Site Allocations and Management of Development Plan 2015 (SADDev). These policies require, amongst other matters, that Shropshire's heritage assets are protected, conserved, sympathetically enhanced and restored, with any adverse effect on a heritage asset only being permitted if the public benefits of the proposal outweigh the adverse effect.
20. The Council's appeal statement also refers to several other policies which were not set out in their decision notices. Policy MD2 is relevant but it merely reflects Policy MD13 which is addressed above. However, Core Strategy Policy CS4 does not relate to the historic environment, and Core Strategy Policy CS17 relates to biodiversity. Therefore, I have not taken these policies into account in relation to this main issue.

Protected species (Appeal A only)

21. The Council's concern relates to the potential for the proposal to impact on bats which are a legally protected species. The submitted bat survey report considers the potential of the demolition and proposed extension to impact on bats and includes a preliminary roost assessment. The report found no evidence of bat roost features with negligible habitat features on site likely to be used by roosting bats. The survey was carried out by a suitably qualified

ecologist and the methodology and overall findings are not disputed by the Council, despite them having the opportunity to comment as part of this appeal. I am therefore satisfied that potential ecological constraints have been sufficiently assessed, and no further mitigation or survey work would be required.

22. Therefore, the proposal would be unlikely to result in harm to bats in compliance with Policy CS17 of the Core Strategy, Policy MD12 of the SADDev and paragraph 180 of the Framework which requires, amongst other things, that development does not adversely affect the ecological value of the environment and its natural assets and that significant harm to biodiversity should primarily be avoided.

Other Matter

23. The Council refer to an existing link corridor building which is located within the rear garden space connecting the house to an outbuilding. I am told this may not have the benefit of consent. Nevertheless, this link corridor does not form part of this proposal and its existence and planning status has had no bearing on my decision to dismiss this appeal.
24. I appreciate that the principle of residential development in this location is acceptable and accords with several development plan policies. However, this does not alter my overall findings which result in conflict with the development plan taken as a whole.

Conclusion

25. Whilst the proposal would not result in harm to bats, it would fail to preserve the special historic interest of the Grade II Listed building. Therefore, for the reasons given above, and having regard to all other matters raised, I conclude that both of the appeals should be dismissed.

M Woodward

INSPECTOR

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Appeal Decision

Site visit made on 23 May 2023

by Elaine Moulton BA (Hons) BPI MRTPI

an Inspector appointed by the Secretary of State

Decision date: 14th June 2023

Appeal Ref: APP/L3245/W/22/3313575

75 Thomas Penson Road, Gobowen SY11 3GW

- 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 Ms Melanie Duncan against the decision of Shropshire Council.
 - The application Ref 22/00608/FUL, dated 4 February 2022, was refused by notice dated 22 June 2022.
 - The development proposed is convert existing integral single garage into a bedroom with en suite. Brick up existing garage door and fit window. Render to match existing.
-

Decision

1. The appeal is dismissed.

Main Issue

2. The main issue is whether the proposal makes adequate provision for off-road parking and the effect of any lack of provision on highway safety.

Reasons

3. The appeal property is an end of terrace which is in use as a House in Multiple Occupation (HMO) within a modern residential estate containing a variety of housing types that also include detached and semi-detached houses, and flats.
4. The Council have not advised me of any specific parking standards for HMO's. The appellant has, however, suggested that 0.5 parking spaces for each occupant is typical parking provision for such a use. In the absence of any compelling evidence that suggests otherwise, I consider such provision to be reasonable. Given that the proposal would result in the property accommodating 5 tenants, at least 2 parking spaces are required to meet such standards if the number is rounded down to the nearest whole, or 3 spaces if rounded up.
5. The appeal property currently has two parking spaces, within the driveway and garage. At the time the appeal was submitted, 2 of the 4 occupants had cars. The proposed conversion of the garage would result in the loss of that parking space and an increase in the number of tenants.
6. The parking provision plan, submitted as an appendix to the appellant's statement, appears to show a second parking space on the driveway to replace the garage space. Based on my observations on site it is apparent that the driveway could be widened and that there is sufficient width to accommodate a second car. However, the step to the front door encroaches into the limited distance between the front elevation of the property and the pavement. In the

- absence of a plan that demonstrates otherwise, I am not convinced that a second car could park in front of the house without overhanging onto the pavement.
7. Therefore, the provision of a single onsite parking space as proposed would be below that required to accord with the typical parking provision for a 5-bedroom HMO, even when the number is rounded down.
 8. Due to the position of driveways and parking spaces within the estate, there is limited opportunity to park on the street without obstructing the access to such off-street parking provision. Nonetheless, I observed some availability of on-street parking at the time of my morning site visit. In addition, the appellant's photographs also show on-street parking availability.
 9. I have had regard to the concerns raised in third-party representations about the difficulties that arise from the current level of on-street parking in respect of access onto driveways and the movement of larger vehicles, including emergency service and refuse vehicles. Moreover, the photographs and my observations at the site visit are a snapshot in time outside of the peak parking period and do not equate to substantive evidence to quantify the existing parking demand and capacity in the road.
 10. I recognise that the location of the site and its proximity to shops, facilities and public transport links, means there is potential for occupiers to not need their own cars. However, equally, the site has good road links that may be attractive to potential occupiers that own a car.
 11. Whilst, at times, some residents of the HMO might not require access to a car, there is potential that, at times, all residents within the building might have access to a private car. Should this scenario occur, it would seem unlikely, based on my observations and the evidence before me, that all vehicles could be parked safely and appropriately within the estate in combination with cars associated with the other properties.
 12. I recognise that the proposal only seeks an increase of 1 occupant within the HMO. However, the parking provision would reduce from that which is currently available. Should a number, or all, of the residents have a car, or the visitor levels by car increase, the limited amount of appropriate car spaces would encourage parking practices in opportune locations.
 13. As a result, there is the potential for inappropriate parking, such as within dedicated turning areas, that could impede the turning and manoeuvring of vehicles and increase the likelihood that such vehicles would have to mount the kerb. Additionally, to provide sufficient space for other vehicles to pass, vehicles may park partially on the pavement, which may force pedestrians onto the road. This would adversely affect highway safety by creating vehicular and pedestrian conflict.
 14. Consequently, the proposed development would not make adequate provision for off-road parking and so would harm highway safety. It would conflict with Policy CS6 of the Shropshire Council Adopted Core Strategy (2011) which seek to ensure that development is designed to a high quality, including appropriate car parking provision. It would also conflict with paragraph 111 of the National Planning Policy Framework 2021, as there would be an unacceptable impact on highway safety.

Other Matters

15. There is no dispute between the parties that the proposed alterations will be harmful to the character and appearance of the property or the wider residential estate. Based on my observations on site, I agree.
16. The appellant has referred to the proximity of the appeal site to local amenities and public transport, thereby minimising the need to use a car and contributing to the reduction of CO2 emissions in the area. Additionally, the proposal would provide additional affordable accommodation for working professionals. However, as set out above, there remains the potential for all residents to have access to a car. Taking that into consideration in addition to the small scale of the scheme the identified benefits do not outweigh the harm to highway safety that I have identified.

Conclusion

17. The proposed development conflicts with the development plan when considered as a whole and there are no material considerations, either individually or in combination, that outweigh the identified harm and associated development plan conflict.
18. For the reasons given above the appeal should be dismissed.

Elaine Moulton

INSPECTOR

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Appeal Decision

Site visit made on 23 May 2023

by Elaine Moulton BA (Hons) BPI MRTPI

an Inspector appointed by the Secretary of State

Decision date: 14 June 2023

Appeal Ref: APP/L3245/W/22/3312879

182 Monkmoor Road, Shrewsbury, Shropshire SY2 5BH

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission under section 73 of the Town and Country Planning Act 1990 for the development of land without complying with conditions subject to which a previous planning permission was granted.
 - The appeal is made by Mr Ozturk against the decision of Shropshire Council.
 - The application Ref 22/03019/VAR, dated 28 June 2022, was refused by notice dated 23 August 2022.
 - The application sought planning permission for alterations to existing retail unit to form a hot food premises and takeaway premises including flue and ventilation system to include change of use without complying with a condition attached to planning permission Ref 18/05121/FUL, dated 21 December 2018.
 - The condition in dispute is No 6 which states that: *The takeaway premises (Use Class A5) hereby approved shall only operate between the hours of 15:00 and 24:00 Monday to Sunday. No customers shall remain on the premises and no deliveries from the premises shall take place outside of these hours.*
 - The reason given for the condition is: *In the interests of neighbouring amenity.*
-

Decision

1. The appeal is dismissed.

Background and Main Issue

2. Planning permission was granted for the use of the appeal premises for hot food and takeaway, subject to a number of conditions including one which restricted the operation of the premises to between specified hours. The appeal seeks to vary condition 6 of that permission, Ref 18/05121/FUL, to extend the permitted hours and allow customer deliveries from midnight until 2am.
3. A further application was submitted by the appellant, Ref 22/05557/VAR, also seeking to vary condition 6 of permission Ref 18/05121/FUL to allow customer deliveries until 2am. Whilst the Council did not permit the variation as sought, it did vary the condition to allow opening between 8am and midnight. In addition, the use of the premises was specified to include restaurant in the varied condition in addition to a hot food takeaway. I have therefore assessed the appeal on the basis of the use of the appeal premises as a restaurant and hot food takeaway.
4. Having regard to the appeal submissions and background, the main issue is the effect that the proposed change in the hours that customer deliveries can take place has on the living conditions of the occupiers of residential properties in the area, by reason of noise and disturbance.

Reasons

5. The appeal property is located on a reasonably busy main road. It is one of a row of 4 commercial properties which include a small supermarket, Indian restaurant and takeaway, and Post Office and general store. There is a flat above the post office as well as residential properties to either side, opposite and to the rear of the row. Whilst there are further commercial properties and a police station nearby, the area is predominantly in resident use.
6. The diversity of services and facilities along Monkmoor Road is such that a lot of activity is generated during the day and in the evening. Residents near to the site therefore experience a degree of noise and disturbance associated with the day-to-day use of this area and from the road. It is, however, reasonable to anticipate that background noise will reduce in the late evening and at night when such activity and vehicular traffic also reduces. In this regard I noted on my site visit that the other commercial units in the row all close by 10pm.
7. Takeaway meals would not be collected by customers but delivered by car rather than motorcycles or vans with staff using a side door within an area enclosed by buildings and boundary treatments. In addition, the appellant has stated that there is no longer any intention of operating delivery services on behalf of other Shrewsbury premises from the appeal site. Such factors would reduce noise and disturbance.
8. Nonetheless, the opening and closing of car doors and the noise of running engines, associated with the delivery service, would generate sudden and intermittent types of noise which would be likely to be audible above the ambient levels. Such noise would be intrusive and would disturb the occupants of nearby dwellings, particularly in the summer months when residents may choose to keep their windows open. Moreover, the noise and disturbance arising from the appeal proposal would add to that arising from the use of the adjoining 24 hour ATM to the further detriment of the living conditions of nearby residents.
9. While a premises licence may have been granted until 2am, this relates to the requirements of the Licensing Act 2003. This regime, while considering the matter of public disturbance, is distinct from planning. In any event, I note that the operation of a delivery service with no collection by customers, as in this case, does not require a license. The controls imposed through the existing license would not, therefore, apply to the proposal. In this context the fact that a licensing application has been granted carries limited weight and I have determined the appeal on the basis of the planning merits of the proposals before me.
10. I acknowledge that the staff involved in deliveries within the proposed extended hours would be made aware of the need to keep noise to a minimum and that this could be addressed in a noise management plan which could be secured by a planning condition. Nonetheless, I am not persuaded that the imposition of such a condition would address the noise associated with the running of car engines and the opening and closing of doors. In this regard I note the comments of the Council's Environmental Protection Team about historic complaints regarding late night disturbance caused by delivery vehicles. Whilst there is no clear and compelling evidence that the complaints are due to the operation of the appeal premises, this strongly suggests that the

type of activity associated with the proposal could adversely affect the living conditions of nearby residents.

11. Early morning opening hours would provide additional income to the business during difficult economic times, but no substantive evidence has been provided that demonstrates that the business would be significantly harmed without the extension of hours as proposed. This limits the weight that I can attribute to this matter.
12. I have been presented with no compelling evidence that demonstrates that the concerns of the Council, regarding preparation of food during the proposed extended hours, would result in any external noise or additional odours that would be detrimental to the living conditions. Nevertheless, this is not determinative as I have found harm arising from the comings and goings of delivery vehicles as detailed above.
13. I therefore conclude that the proposed change in the hours that customer deliveries can take place would cause significant harm to the living conditions of surrounding residents, with regard to noise and disturbance. As a result there would be conflict with Policy CS6 of the Shropshire Council Adopted Core Strategy (2011) (CS) which seeks to ensure that all development, amongst other things, safeguards residential and local amenity. It would also be contrary to paragraph 130 of the National Planning Policy Framework which seeks development that, amongst other things, provides a high standard of amenity.
14. The Council has also referred to policy MD2 of the Shropshire Council Site Allocations and Management of Development Plan (2015) (SAMDev) in its decision notice. However, as the policy does not specifically address impacts on living conditions it does not apply in this case.

Other Matters

15. My attention has been drawn to the change of officer opinion since the decision was made on original application, Ref 18/05121/FUL, when there was officer support for the operation of the premises until 2am. The Council has, nevertheless, produced clear and specific reasons for its decision in this case, which was reached some considerable time after the original application was permitted and after the use became operational. I have shared its view that extended hours are unacceptable for the reasons set out above.
16. I note that there was some third-party support for the proposal. However, such support for reasons, which include an increase in work opportunities, and the increase in variety and convenience of food options within the area, do not outweigh the harm that I have identified.

Conclusion

17. The development conflicts with the development plan when considered as a whole and there are no other considerations, either individually or in combination, that outweighs the identified harm and associated development plan conflict.
18. I hereby dismiss this appeal.

Elaine Moulton INSPECTOR

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Appeal Decision

Site visit made on 26 June 2023

by **Ben Plenty BSc (Hons) DipTP MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 7 July 2023

Appeal Ref: APP/L3245/D/23/3316408

Breiden, 46 Woolston Road, Oswestry SY11 4LB

- 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 P Mansell against the decision of Shropshire Council.
 - The application Ref 22/04688/FUL, dated 13 October 2022, was refused by notice dated 15 December 2022.
 - The development proposed is Erection of two storey extension with single storey element following partial demolition of garage and associated internal alterations (revised scheme).
-

Decision

1. The appeal is dismissed.

Main Issues

2. The main issues are:
 - the effect of the proposed extension on the character and appearance of the host building, and
 - the effect of the proposal on ecological interests.

Reasons

Character and appearance

3. The appeal dwelling is a semi-detached property at the end of a loose line of dwellings on a country lane. Its side elevation is largely exposed to wider views due to the relatively open character of the surrounding countryside and the absence of tall hedge planting. The dwelling has been extended in the past with rear and side additions that have substantially increased the overall mass of the original dwelling and eroded its simple and pleasant sandstone form. As a result, the dwelling makes a neutral contribution to the character and appearance of the area.
4. The proposed extension would remove the ungainly side feature, containing the existing staircase, and subsume the flat roof two-storey rear extension into a deeper projection. These works would partly rationalise the form of the existing dwelling. However, the two-storey addition would project beyond the main side elevation of the property and would add a large porch feature that would be clad in vertical timber boarding. These features would fail to complement either the original building or rationalise the appearance of the dwelling's previous extensions.

5. The two-storey extension would project further into the rear garden with an addition of significant further bulk. It would also protrude from the main side elevation of the dwelling creating an awkward staggered line within the side elevation. This feature would reinforce the size of the extension. Also, the proposed single storey side extension would be emphasised by the use of timber board cladding. Through its position, and use of uncharacteristic materials, this feature would be a further overt addition. The combined effect of the proposed extensions would form an awkward juxtaposition of elements that would diminish and harming the character of the host dwelling. Moreover, due to the site's prominence, the proposal would be obtrusive when approaching the village, also resulting in harm to the character and appearance of the area.
6. Accordingly, the proposed extensions would conflict with policy CS6 of the Shropshire Core Strategy [2011] (CS) and MD2 of the Shropshire Council Site Allocations and Management of Development (SAMDev) Plan [2015]. These seek, among other matters, for development to be designed to a high quality and respect locally distinctive character.

Ecological matters

7. The Conservation of Habitats and Species Regulations [2017] (as amended) requires a decision maker to understand the effect of a proposed development on protected species. The Council's ecologist finds that the proposed works would include roof modifications which may affect a habitat for bats, a protected species. As such, under the Habitat Regulations, it is necessary for the Appellant to demonstrate whether or not bats would be affected by the proposal through a preliminary bat roost assessment.
8. This matter could not be subject to a planning condition and must be resolved prior to consent being given. As such, the Appellant has failed to demonstrate that the proposal would not have an adverse impact on a bat population. Consequently, the proposal would conflict with CS policy CS17 and SAMDev policy MD12. These seek, *inter alia*, for development to not adversely affect the ecological value of Shropshire's natural assets.

Other Matters

9. During my visit I observed that the neighbouring property 'The Grove' has been extended. Whilst each case must be considered on its own merits, I note that the neighbouring brick extension seems to be well integrated with the host dwelling, with one main material. As such, this is not readily comparable to the proposal. Also, whilst the proposal would not affect the living conditions of existing neighbouring occupiers, an absence of harm in this respect can only be considered as a neutral factor in the planning balance.

Conclusion

10. The proposal would harm the character and appearance of the area and would conflict with the development plan when taken as a whole. For the reasons given, I conclude that the appeal should not succeed.

Ben Plenty

INSPECTOR



Appeal Decision

Site visit made on 20 June 2023

by H Smith BSc (Hons) MSc MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 30 June 2023

Appeal Ref: APP/L3245/W/23/3314590

13 Oswald House, Oswald Road, Oswestry, Shropshire SY11 1RB

- 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 D Wainwright (St David Oswald Limited) against the decision of Shropshire Council.
 - The application Ref 22/03805/FUL, dated 18 August 2022, was refused by notice dated 8 December 2022.
 - The development proposed is change of use from commercial use (Class E) at ground floor with self-contained residential units on the first, second and third floors to two self-contained residential units at ground floor and a 14 bedroom House in Multiple Occupation across the first, second and third floors.
-

Decision

1. The appeal is dismissed.

Main Issues

2. The main issues are the effect of the proposal on:
 - the living conditions of future occupants, with specific regard to the provision of outdoor amenity space, and whether it has been demonstrated that the proposal would secure the provision of an off-site open space improvements contribution; and
 - highway safety, with regard to parking provision and access for deliveries and refuse collection.

Reasons

3. The appeal site comprises a vacant five-storey (including basement) traditional style property located within the centre of Oswestry. The surrounding area is predominantly mixed use.

Living Conditions

4. The proposal seeks permission for the conversion of the existing building to create a 14-bedroom house in Multiple Occupation (HMO) with 2 self-contained residential units.
5. The proposal would make provision for an area of outdoor amenity space to the rear of the appeal property. This area would be shared by the proposal's future occupiers. An enclosed garden area would also be provided for flat 1.
6. The proposal's shared outdoor amenity space would be of limited size. Furthermore, due to the positioning of the proposed cycle storage, waste stations and the enclosed garden area for flat 1, this would result in the shared

area being an awkwardly shaped space that would limit its usability. Therefore, its use as a shared space would feel constrained, reducing unacceptably its quality and level of practical use. Similarly, the enclosed garden space for flat 1 would be small.

7. I find that these spaces would not be large enough to provide sufficient space for the needs of future occupier's, such as clothes drying or enjoying garden activities and relaxation with outdoor seating. Consequently, the proposal would not provide adequate living conditions for future occupants, having regard to the amount of outdoor amenity space.
8. The proposal would provide internal laundry facilities, including driers, for its future occupants. Whilst this would be a laudable approach, the proposal would not provide adequate space for outdoor clothes drying.
9. I acknowledge that there are recreational spaces within a reasonable walking distance of the appeal site. However, as the recreational spaces are public spaces they would be shared with non-residents and are therefore not a private space.
10. Based on the number of bedrooms proposed, were the proposal to be granted planning permission, the Council indicate that a financial contribution towards open space improvements would need to be made. The appellant has referred to a Section 106 legal agreement to secure the provision of an off-site open space improvements contribution. Although the appellant has submitted a draft Heads of Terms, I do not have a signed Section 106 legal agreement before me. In the absence of such an agreement I am unable to conclude whether the provision of an off-site open space improvements contribution can be secured.
11. Therefore, the proposal fails to accord with Policy CS6 of the Shropshire Local Development Framework: Adopted Core Strategy (2011) (Core Strategy) and Policy MD2 of the Shropshire Council Site Allocations and Management of Development Plan (2015) (SAMDev). Collectively these policies, amongst other things, seek to ensure development supports the health and well-being of the area's inhabitants. In addition, the proposal would also fail to accord with paragraph 130 of the National Planning Policy Framework (Framework), where it seeks to promote health and well-being, and a high standard of amenity for existing and future users.
12. In reaching this conclusion I have had regard to the guidance contained within the Council's Type and Affordability of Housing Supplementary Planning Document (SPD) (2012), which seeks to ensure development provides acceptable living standards for occupants in terms of external private amenity space.
13. The Council's decision notice makes reference to Policy CS11 of the Core Strategy. However, I do not consider this policy to be relevant to this main issue.

Highway Safety

14. The appeal property is close to bus routes, and I observed that the site is within easy walking and cycling distances of local services and facilities. Indeed, employment opportunities and retail facilities in Oswestry town centre are located within a short walk of the site, including a number of supermarkets.

Therefore, the appeal property is reasonably accessible by public transport, walking and cycling.

15. An area to the side of the appeal property would provide parking for up to 5 cars and a turning area so that vehicles can enter and egress the site in forward gear. I observed that on-street parking and public car parking facilities are available for residents in the nearby area.
16. The Council is concerned that the proposal would add to on-street parking demand that could lead to highway safety issues. However, the Highways Authority has no objection to the proposal, subject to suggested conditions.
17. The appeal property in its previous form was occupied by commercial uses on its ground floor and basement, and by residential use on its upper floors, which could have consisted of families with several adults and teenagers. Therefore, the previous uses could have attracted a high level of car ownership with its associated parking demand. I also note from the Officer's report that there is no history of the previous uses generating any issues or complaints with regard to traffic movement and car parking.
18. The proposal before me is mainly for single bed occupancy. In my view, the level of activity generated by the future occupant's comings and goings for work, education, leisure, and shopping purposes etc would not be dissimilar to that of the previous uses, given its good access to services and facilities and to sustainable modes of transport.
19. As such, the proposal would not be significantly different to that of the previous uses with regard to off road parking demand. Furthermore, a condition could be imposed to control the number of persons residing at the property.
20. It is suggested that the proposal could cause a reduction in availability of on-street parking provisions for nearby commercial uses and residential properties. However, no tangible evidence has been provided to articulate any existing issue or demonstrate any potential harm that could arise if the development were to go ahead. Although only a snapshot in time, during my site visit I did not observe any particular parking issues, and numerous spaces were available.
21. In addition, the proposal would include a cycle stand and secure cycle storage with provision for around 16 bicycles, and the proposal is within easy walking distance to a bus station. This would encourage alternative means of transport other than the private car.
22. Therefore, future occupiers of the appeal building would not be reliant on a private motor vehicle to access services and facilities given the sustainable location of the site and the proposal's provision of cycle storage and good access to nearby bus stops. In addition, future occupants would be aware of the parking constraint at the appeal site prior to choosing to live there.
23. Therefore, in the absence of substantive evidence to the contrary, the proposal would not exacerbate on road parking to the extent that highway safety would be materially harmed.
24. The Council is also concerned that the proposal would provide inadequate access for deliveries and refuse collection. However, there would be unobstructed access and a turning area to the side of the property. It should

therefore be possible for delivery vehicles and refuse collection to access the site safely. Moreover, the appeal site's previous uses would have experienced an existing need for delivery vehicles and refuse collection to access the site. On this basis, I am satisfied that the proposal would provide adequate access for such vehicles.

25. Paragraph 111 of the Framework is clear that development should only be refused on highway grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe. I am also mindful that the Highway Authority did not object to the proposal. As such, I find that the proposal would not result in a harmful effect on parking provision and highway safety in the area.
26. For the reasons given, the proposal would not be harmful to highway safety, with specific regard to parking provision and access for deliveries and refuse collection. As such, the proposal for this main issue would comply with Policy CS6 of the Core Strategy. Amongst other things, this policy seeks to ensure development is located in accessible locations where opportunities for walking, cycling and use of public transport can be maximised and the need for car based travel to be reduced.
27. The Council's decision notice makes reference to Policy CS11 of the Core Strategy and Policy MD2 of the SAMDev. However, I do not consider these policies to be relevant to this main issue.

Other Matters

28. In addition to the issues already covered above, other concerns raised included an increase in anti-social behaviour and drug taking in the area, and concerns over the type of people who would occupy the premises. Whilst I accept that these matters are of great importance to local residents, these are concerns which are either non-planning matters or are controlled through other separate legislation and bodies such as Licencing, Environmental Health, and the Police.
29. Concerns regarding drainage issues have also been raised. However, the Council's Drainage Manager raised no objections to the proposal on drainage matters. Based on the evidence before me, I see no reason to disagree.
30. The appeal site is located within Oswestry Conservation Area and is opposite both the Grade II listed Old Railway Station and Goods Shed, and the appeal property itself is a non-designated heritage asset. I am required to have regard to the preservation and setting of these heritage assets. However, given that I am dismissing the appeal, the proposed development would not result in a change to the way in which these heritage assets are experienced. Therefore, I do not need to give this matter further consideration.

Planning Balance and Conclusion

31. The proposal would provide residential units with good access to services and facilities in the area, including public transport. The proposal would also provide jobs during the construction process both directly and indirectly and would contribute to the wider economy of the local area. It would also make effective use of a redundant building and would provide flexible housing options for different groups at different times. However, given the small scale of the proposal, the provision of these residential units would not outweigh the harm identified.

32. The lack of harm I have found in regard to highway safety would be neutral in the balance. Thus overall, the modest benefits are insufficient to outweigh the harm I have found in regard to the living conditions of future occupants. There are no material considerations worthy of sufficient weight that would indicate a decision other than in accordance with the development plan. The appeal is therefore dismissed.

H Smith

INSPECTOR

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Appeal Decision

Site visit made on 12 June 2023

by N McGurk BSc (Hons) MCD MBA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 4th July 2023

Appeal Ref: APP/L3245/D/23/3318428
48 Underdale Road, Shrewsbury, SY2 5DT

- 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 Jordanis Petridis against the decision of Shropshire Council.
 - The application Ref 22/04602/FUL, dated 8 October 2022, was refused by notice dated 20 December 2022.
 - The development proposed is conversion of existing garage and extension to form a flat annexed to existing house.
-

Decision

1. The appeal is dismissed.

Procedural Matters

2. One of the Council's reasons for refusal refers to a loss of a parking space that would arise from the proposed development. However, the appeal property is located within a sustainable location, close to a wide range of services and facilities and is within easy walking distance of public transport. There is no substantive information before me to demonstrate that the proposed development would result in significant harm to highway safety and consequently, this appeal decision focuses on the main issue set out below.

Main Issue

3. The main issue in this case is the effect of the proposed development on the character and appearance of the Shrewsbury Conservation Area.

Reasons

4. The appeal property is a two storey detached dwelling with a small detached garage to the side and set forward of the host dwelling's front elevation. The garage is separated from the host dwelling to the front by a brick wall.
 5. The appeal property is set back a short distance from the pavement behind a hedgerow and short front garden area, whilst the garage to the side is set back behind a tall wooden gate.
 6. The appeal property is located within the Underdale Road Special Character Area which itself is located within the Shrewsbury Conservation Area, characterised in this location by the presence of attractive Victorian and Edwardian two and three-storey red-brick dwellings, replete with a range of
-

- period features including sash windows, stained glass, gable and bow windows, decorative brickwork, stone lintels, timber-boarded gables and brick and rail boundaries.
7. Underdale Road in this location is narrow, with a pavement along one side only. This gives rise to a sense of intimacy, whereby the street's period features can be keenly appreciated.
 8. The appeal property's detached garage appears to have been designed as an attractive ancillary feature, "peeping" above the wooden gate and brick wall to Underdale Road, allowing glimpses of its modest dimensions and interesting features, including black timber boarding over white render and its small, simple roof.
 9. Further, the small scale of the garage also allows for views alongside and above the garage roof to the host dwelling and to trees and to greenery behind. Also, the design and scale of the garage is such that it greatly complements and does not detract from the appreciation of the attractive brick and gate boundary features of both the appeal property and its neighbour, Number 46 Underdale Road, to the front of the garage.
 10. The proposed development seeks to significantly extend the height and the footprint of the garage. I find that this would fundamentally alter the appearance of the garage and its relationship with the host dwelling and its surroundings.
 11. The proposed roof would rise considerably above the garage ridge and would be of such a height and would combine with other proposed elements of the scheme such that it would draw undue attention to itself as a considerable residential development, somewhat bulky and awkward in appearance, rather than as a modest ancillary building. Further, the overall roof form would appear disjointed and out of scale with the boundary features, leading it to appear incongruous with its surroundings.
 12. As a result of the above, the proposal would draw undue attention to itself as an incongruous and unsympathetic form of development that would appear to the detriment of the Shrewsbury Conservation Area's qualities.
 13. Consequently, the proposed development would fail to conserve the appearance of the Shrewsbury Conservation Area. Having regard to paragraph 202 of the National Planning Policy Framework (the Framework) and to Planning Practice Guidance, I consider that the harm to the character and appearance of the Conservation Area would be less than substantial. This needs to be balanced against any public benefits the development may bring.
 14. In this respect, whilst I recognise that the proposal would provide for additional living space and enable the sharing of the appeal property, this does not amount to a significant public benefit and there is nothing before me to demonstrate that there are any benefits that would amount to such public benefits that they would outweigh the harm identified.
 15. Taking all of the above into account, the proposal would fail to conserve the character and appearance of the Shrewsbury Conservation Area contrary to the

National Planning Policy Framework; to Core Strategy¹ Policy CS6; and to SAMDev DMP² Policies MD2 and MD13, which together amongst other things, seek to protect local character.

Conclusion

16. For the reasons given above, the appeal does not succeed.

N McGurk

INSPECTOR

¹ Reference: Shropshire Local Development Framework: Adopted Core Strategy (2011).

² Reference: Shropshire Site Allocations and Management (SAMDev) Plan (2015).

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Appeal Decision

Site visit made on 6 June 2023

by Nichola Robinson BA (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 17 July 2023

Appeal Ref: APP/L3245/W/22/3309757

Land to the south of Garside Close, Upper Hengoed, Oswestry

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant outline planning permission
 - The appeal is made by Mr James McNally against the decision of Shropshire Council.
 - The application Ref 22/00865/OUT, dated 21 February 2022, was refused by notice dated 29 April 2022.
 - The development proposed is outline permission for residential development.
-

Decision

1. The appeal is dismissed.

Preliminary Matters

2. I have taken the site address from the appeal form as this better reflects the appeal site address. The appeal has been determined on this basis.
3. The application was submitted in outline with all matters reserved for future consideration. Indicative plans were submitted relating to the possible floor plans and site layout of the proposed scheme. I have had regard to these in so far as relevant to this appeal and consider them as illustrative.
4. A draft Section 106 legal agreement has been submitted which includes a mechanism to contribute towards affordable housing. As this agreement has not been completed, I have to determine the appeal on the basis that it is not in place, therefore I have not taken this into consideration in my decision.
5. An amended site location plan was submitted with the appeal. This represents a minor alteration to the appeal site. In addition, the Council have had opportunity to comment on this amended plan. On this basis, I do not consider that any party would be unfairly prejudiced, and I therefore have had consideration to the submitted plan in determining this appeal.
6. Both the main parties refer to policies in the emerging local plan, currently in examination. I am not aware of the exact stage this plan has reached, the extent of unresolved objections or whether the policies concerned will be considered consistent with the National Planning Policy Framework (the Framework). Consequently, in accordance with paragraph 48 of the Framework, I give the emerging plan limited weight.

Main Issue

7. The main issue is whether the proposal is in a suitable location for housing, having regard to the spatial strategy of the development plan.

Reasons

8. The appeal site comprises a vacant parcel of land which is located to the south of a modern residential development in Upper Hengoed. Upper Hengoed is a small settlement, which, along with Selattyn, Lower Hengoed, Middle Hengoed and Pant Glas, is defined as a Community Cluster in the Shropshire Council Site Allocations and Management of Development Plan (2015) (SAMDev). Upper Hengoed contains a garage and a public house and limited other services. A local bus service provides access to nearby settlements including Oswestry and Wrexham. The nearby settlements, including those which comprise this Community Cluster, contain limited services.
9. Policy CS1 of the Shropshire Local Development Framework Adopted Core Strategy (2011) (CS) outlines the strategic approach to development across the plan area. This establishes a hierarchical approach to residential development that is to be directed towards Shrewsbury (25% share), Market Towns and other Key Centres (40%) and rural areas (35%). Within rural areas the policy states that development and investment will be located predominantly in community hubs and community clusters and will contribute to social and economic vitality. CS Policy CS4 goes on to set out the approach for development in rural areas, promoting development that enables communities to become more sustainable. This includes focusing development within Community Hubs and Community Clusters.
10. The SAMDev complements the policies in the CS and includes a number of settlement policies which guide future development in order to help to deliver the vision and objectives of the CS. SAMDev Policy S14.2(x) seeks to control development within the Community Cluster which includes Upper Hengoed, stating that, reflecting the level of recent commitments, including a recent consent for 13 dwellings in Upper Hengoed. In policy terms, further housing development in Upper Hengoed will not be supported during the period to 2026.
11. The appellant states that the current local plan is out of date and argues that national policy set down in the Framework should be used to determine the proposal. However, the appellant has not substantiated how or why the current local plan is out of date, and I have not been drawn to any inconsistencies between the relevant development plan policies and the Framework. Therefore, I see no reason not to give full weight to the development plan.
12. The proposal relates to the development of this agricultural site for residential use. Indicative plans show how the site could be developed to accommodate 8 dwellings. Whilst Upper Hengoed does not have a settlement boundary as defined in the development plan, the proposed development would adjoin existing residential development to the north and would relate well to the existing settlement. Nonetheless, in policy terms the site lies in the open countryside where new residential development is restricted unless identified in a Community Led or Neighbourhood Plan as part of the Local Plan Review, however even if proposed in the review this would be for the plan period beyond 2026 and subject to a process which has not yet been completed.
13. The main parties agree that 13 dwellings in Upper Hengoed, as required by SAMDev policy S14.2(x), have now been constructed. Thus, whilst there is support in principle for new residential development in community clusters within the CS, there would be conflict with SAMDev policy S14.2(x) which

specifically restricts new residential development within this community cluster during the plan period to 2026. I attribute great weight to the conflict with the more recent Policy set down in the SAMDev.

14. In support of their proposal the appellant cites two appeal decisions¹ in which the Inspectors commented that housing requirements are set as minima and the proposals would support the Government's objective of significantly boosting the supply of homes. Furthermore, in the second of these decisions, the Inspector found that the proposal would support the desire for a rural rebalance through contributing towards social and economic vitality and provide benefits to the community.
15. The first of these appeal decisions related to a site which had been put forward as a site allocation in the emerging local plan. Furthermore, both appeals relate to sites which the Inspectors concluded were reasonably accessible to a range of facilities by means of travel other than private motor vehicles. Notwithstanding the appellant's comments that the proposal would include a mixture of households of all ages who would maintain the vitality of rural services including services in neighbouring villages, with the exception of the local bus service, service provision within Upper Hengoed and the other nearby settlements, including those which make up this community cluster, is limited, thereby providing limited opportunities for the support of these services from future occupiers of the development. Furthermore, the highway conditions in between the appeal site and the surrounding settlements, including the limited facilities for pedestrians and lack of street lighting, would likely make walking or cycling such journeys unattractive.
16. Consequently, whilst I acknowledge that vitality is not limited to economic benefits and includes the social role of sustainable development², future occupiers are unlikely to significantly contribute towards local social and economic vitality and I have not been presented with any particular evidence that the proposal would enable these communities to become more sustainable. Therefore, this appeal proposal differs from the cited appeal decisions in which the proximity to local services by means of travel other than private motor vehicles and the prospect of support for these services by future residents to the benefit of the social and economic vitality of these communities weighed in favour of the proposals.
17. Residential development here would meet the objectives of CS policies CS1 and CS4 and SAMDev Policy MD1 which seek to locate development within community clusters, as well as national planning objectives which seek to boost the supply of homes, nonetheless there would be a fundamental conflict with SAMDev policy S14.2(x) which specifically seeks to restrict new residential development within this community cluster.

Other Matters

18. I acknowledge that the construction of dwellings would make a small contribution towards the Council's housing supply and acknowledge the Government's objective is to significantly boost the supply of homes. There would also be short-term economic benefits associated with construction and

¹ APP/L3245/W/21/3267148 and APP/L3245/W/21/3288834

² Braintree District Council v (1) Secretary of State for Communities and Local Government (2) Greyread Limited (3) Granville Developments Limited [2017] EWHC 2743 (Admin)

Council tax revenues in the longer term. These factors weigh in favour of the scheme.

19. The appellant states that residents will have ample choice of education, employment, and recreational activities within close proximity. However, I have not been supplied with any details of such provision, and as set out in relation to the main issue, I note that service provision within the settlement of Upper Hengoed and the surrounding area is limited. Therefore, this does not weigh in favour of the proposal.
20. The appellant states that the proposal will be sensitively designed to respond to the local vernacular and the form of Upper Hengoed and will include a comprehensive landscaping scheme. The Framework requires good design in all new development, however, this appeal is in outline format where all detailed matters are reserved. Thus, this matter weighs neither for, nor against the appeal proposal.
21. The appellant's aspiration to develop an energy efficient proposal utilising renewable energy sources and sustainable building methods is noted as is the suggestion that the proposal would make provision for on-site parking with adequate visibility splays for access. However, this proposal is in outline format, and details of these measures are not before me at this outline stage, Furthermore, I note that the provision of adequate site access and on-site car parking would be required in any case.
22. The site is located within flood zone 1 and the proposal would make adequate provision for surface water and foul drainage. Additionally, I note that the Preliminary Ecological Appraisal which accompanies the proposal found that there would be no harm to protected species. Nonetheless, these matters do not outweigh the conflict I have identified in relation to the first main issue.
23. I note that the Council did not object to the proposal on grounds of the effect on the living conditions of the occupants of neighbouring properties, as such matters are reserved and may indeed change, they do not weigh in favour of the development when it is the principle of development on the site which is under consideration.
24. Paragraph 80 of the Framework states that Planning policies and decisions should avoid the development of isolated homes in the open countryside. Whilst there is no indication that the appeal site is isolated, nonetheless, this does not override the conflict with the development plan.

Conclusion

25. It is clear that the appellant does not dispute that the Council is able to provide a supply of housing in excess of five years but they also emphasise those should be regarded as a minimum level. They also argue that the site should be regarded as a windfall site to help meet the governments' objective to increase housing supply however the Framework reference at paragraph 69 c) gives great weight to sites within settlements which is not the case here.
26. The starting point for any planning decision is Section 38(6) of the Planning and Compulsory Purchase Act 2004 which requires planning applications to be determined in accordance with the provisions of the Development Plan unless material considerations indicate otherwise. In this case there are clear policy reasons to limit new residential development in this location such that the

presumption in favour of development does not apply. There are no overriding reasons which would warrant a decision other than in accordance with the development plan.

27. So, for the reasons given above, having considered the development plan as a whole along with all other relevant material considerations, the appeal is dismissed.

Nichola Robinson

INSPECTOR

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Appeal Decisions

Site visit made on 24 May 2023

by **Paul Griffiths BSc(Hons) BArch IHBC**

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 12 July 2023

Appeal A: APP/L3245/W/22/3305077

46 (Flat) Mardol, Shrewsbury SY1 1PP

- 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 John Kuschnir against the decision of Shropshire Council.
 - The application Ref.22/01201, dated 9 March 2022, was refused by notice dated 16 May 2022.
 - The development proposed is described as 'the erection of a second storey to former cold store and two storey warehouse; the installation of two roof-lights to rear roofline; and extension at first floor with formation of roof terrace'.
-

Appeal B: APP/L3245/Y/22/3309846

46 (Flat) Mardol, Shrewsbury SY1 1PP

- The appeal is made under section 20 of the Planning (Listed Buildings and Conservation Areas) Act 1990 against a refusal to grant listed building consent.
 - The appeal is made by John Kuschnir against the decision of Shropshire Council.
 - The application Ref.22/01522/LBC, dated 28 March 2022, was refused by notice dated 17 May 2022.
 - The works proposed are described as 'works to facilitate the erection of second storey to former cold store and two-storey warehouse; the installation of two roof-lights to rear roofline; and extension at first floor with formation of roof terrace'.
-

Appeal C: APP/L3245/W/22/3315101

46 (Flat) Mardol Shrewsbury SY1 1PP

- 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 John Kuschnir against the decision of Shropshire Council.
 - The application Ref.22/02424/FUL, dated 23 May 2022, was refused by notice dated 25 July 2022.
 - The development proposed is described as 'the construction of first floor rear extension; insertion of patio doors; formation of roof terrace; and installation of two roof-lights'.
-

Appeal D: APP/L3245/Y/22/3315167

46 (Flat) Mardol Shrewsbury SY1 1PP

- The appeal is made under section 20 of the Planning (Listed Buildings and Conservation Areas) Act 1990 against a refusal to grant listed building consent.
 - The appeal is made by John Kuschnir against the decision of Shropshire Council.
 - The application Ref.22/02357/LBC, dated 18 May 2022, was refused by notice dated 25 July 2022.
 - The works proposed are described as 'the construction of first floor rear extension; insertion of patio doors; formation of roof terrace; and installation of two roof-lights'.
-

Procedural Matters

1. Despite some elements in common, there are differences between the proposals in Appeals A and B, and those in Appeals C and D. In the headers above, I have adopted the more succinct descriptions of development and works in the Council's decision notices and I have dealt with the two pairs of appeals on the basis of those descriptions.
2. Appeals B and D are appeals against the Council's refusal to grant listed building consent for works. When dealing with appeals of that kind, it is incumbent upon me as the Inspector to satisfy myself that what is proposed are in fact works that require listed building consent, notwithstanding the fact that applications for such consent were made.
3. In so doing, my reference point is Section 7 of the Planning (Listed Buildings and Conservation Areas) Act 1990 (the Act). This sets out that no person shall execute or cause to be executed any works for the demolition of a listed building or for its alteration or extension in any manner which would affect its character as a building of special architectural or historic interest, unless the works are authorised. Having regard to what the proposals here entail, the central question is whether the alterations and extensions proposed would affect the character of the listed building as one of special architectural or historic interest; the listed building in this case being 46 and 47 Mardol.
4. The list description tells us that 46 and 47 Mardol are a pair of shops, probably built as a house. They date from the early 18th Century probably re-fronting an earlier structure. The steeply pitched roof and rendered gable ends behind a parapet suggest a possible timber-framed core.
5. The proposals in Appeals B and D involve changes to the additions to the rear of 46 and 47 Mardol. These additions appear to date from the 20th Century and have very little architectural merit, or historic interest. The fact that these rear additions are not mentioned in the list description is not definitive, but it is very clear from that list description that the special architectural and historic interest of the listed building resides in the early 18th Century element that fronts Mardol. The changes proposed to the much later rear additions would have no effect at all on that element and for that reason, I am of the view that the alterations and extensions proposed in Appeals B and D would not affect the character of the listed building as one of special architectural or historic interest. On that basis, those proposals would not meet the definition of works and do not, therefore, require listed building consent. For those reasons, I intend to take no further action on Appeals B and D.
6. In terms of Appeals A and C, it is important, first of all, to set out some background. The appellant maintains that the Council granted planning permission (ref.97/1040/114/85) and listed building consent (ref.97/1042/LB2/114/85) for 'replacing a ground floor flat roof with a hip pitched roof, replacing a first floor flat roof with a hip pitched roof, replacing a mono-pitch asbestos roof with a hip pitched roof, demolishing a wall, refurbishing an existing balcony, forming an opening in an existing wall for double French doors and a window, and change of use to residential for the former cold store and rear ground floor' on 3 December 1997. The appellant further maintains that this development was commenced, and the Council confirmed that to be the case on 3 July 2006.

7. In their submissions on the appeal, the Council has not disputed any of this information. On that basis, it seems to me that the appellant is at liberty to complete the development/works that he has permission and consent for. The proposals at issue in Appeals A and C must be seen in that context.
8. Further, it has been brought to my attention that the Council has granted on 17 April 2023, under ref. 23/00488/VAR, what it terms a 'variation of condition' relating to condition 2 attached to the grant of planning permission ref.97/1040/114/85. Bearing in mind how section 73 actually works, what the Council has done is grant planning permission for the same development that was permitted in December 1997, with a new condition 2. This means that having considered it, the Council has, alongside other things, approved the development that is before me in Appeal C, or at least, something very similar to it. I have no good reason to reach a contrary view, and, on that basis, I intend to allow Appeal C, subject to the conditions suggested by the local planning authority, with some minor adjustments, which cover commencement, the approved plans, external materials, and various details

Decisions

Appeal A

9. The appeal is allowed and planning permission is granted for the erection of a second storey to former cold store and two storey warehouse; the installation of two roof-lights to rear roofline; and extension at first floor with formation of roof terrace at 46 (Flat) Mardol, Shrewsbury SY1 1PP in accordance with the terms of the application Ref.22/01201, dated 9 March 2022, subject to the following conditions:
 - 1) The development hereby permitted shall begin not later than three years from the date of this decision.
 - 2) The development hereby permitted shall be carried out in accordance with the following approved plans: Un-numbered: Site Location Plan; 05: Proposed Floorplans; 08: Proposed Ground Floor Plan; 09: Proposed First Floor Plan; 10: Proposed Second Floor Plan; 11 (March 2022): Proposed Elevations; and 11 (May 2022): Proposed Elevations.
 - 3) No development shall take place until samples of the wall and roof materials, and details of brick bond, and the treatment of new openings, have been submitted to and approved in writing by the local planning authority. Development shall be carried out in accordance with the approved details.
 - 4) No external windows or doors shall be installed until details thereof have been submitted to and approved in writing by the local planning authority. Development shall be carried out in accordance with the approved details.
 - 5) No construction work involving the new roof to the former cold store shall take place until details of the treatment of the eaves, hips, and ridge have been submitted to and approved in writing by the local planning authority. Development shall be carried out in accordance with the approved details.

Appeal B

10. No action for the reasons set out above.

Appeal C

11. The appeal is allowed, and planning permission is granted for the construction of first floor rear extension; insertion of patio doors; formation of roof terrace; and installation of two roof-lights at 46 (Flat) Mardol Shrewsbury SY1 1PP in accordance with the terms of the application Ref.22/02424/FUL, dated 23 May 2022, subject to the following conditions:

- 1) The development hereby permitted shall begin not later than three years from the date of this decision.
- 2) The development hereby approved shall be carried out in accordance with the following approved plans: Un-numbered: Site Location Plan; 09: Proposed Floorplans; 10: Proposed Floorplans; 11: Proposed Elevations.
- 3) No development shall take place until samples of the wall and roof materials, and details of brick bond, and the treatment of new openings, have been submitted to and approved in writing by the local planning authority. Development shall be carried out in accordance with the approved details.
- 4) No external windows or doors shall be installed until details thereof have been submitted to and approved in writing by the local planning authority. Development shall be carried out in accordance with the approved details.

Appeal D

12. No action for the reasons set out above.

Main Issue

13. That leaves Appeal A. Appeal A differs from Appeal C in that as well as the alterations to the existing building covered by Appeal C, it also involves the addition of another storey to what is referred to as the former cold store and a new hipped roof on top of that, with the accommodation so formed being used as a separate residential unit. Having found nothing untoward with Appeal C, it is clear that the corresponding elements of Appeal A should also find favour. The main issue in Appeal A is, therefore, whether the addition of another storey to the former cold store, and the formation of a residential unit within it, is acceptable, having regard to the various issues raised by the Council about it.

Reasons

14. The first aspect of concern to the Council relates to bats and specifically, the absence of a bat survey. Standing advice from Natural England states that a survey should be requested if a development proposal is likely to negatively affect bats or their roost habitats, foraging habitats, or commuting habitats. The remains of the former 'cold store' consist of a roofless shell. There is nothing in what remains of it that is remotely likely to provide a roosting opportunity for bats and neither would an upward extension of it disturb foraging or commuting habitats. In that context, I see no difficulty with the proposal in relation to bats.

15. The second aspect of concern relates to flood risk and the absence of any Flood Risk Assessment. The site is close to the path of the River Severn but it is fair to observe that the floor of the former cold store is raised well above the prevailing street level. More importantly, there are two extant planning permissions (ref.97/1040/114/85 and ref.23/00488/VAR) which allow the use of the ground floor of the former 'cold store' for residential use. Extending that already permitted use upwards, into a new second storey, would have no impact in flood risk terms.
16. That leaves the issue of designated heritage assets. The former cold store is one part of the additions to the rear of Nos.46 and 47 Mardol, a Grade II listed building. Like the other additions, the former cold store dates from the 20th Century and has little architectural merit or historic interest. What is more, these later additions to the listed building are prominent in views from Smithfield Road which runs along the path of the River Severn. The sight of the roofless former cold store and for that matter, the other additions to the rear of Nos.46 and 47 Mardol, have a negative impact on views of the rear of the listed building, the setting of other listed buildings on Mardol, and both the character and appearance of the Shrewsbury Conservation Area.
17. The upward extension of the former cold store would be prominent in these views, but if constructed appropriately in terms of the use of materials and architectural detailing, matters that can be dealt with by condition, it would appear resolved, as opposed to the incomplete shell visible at present. In this way the upward extension of the former cold store, alongside the other parts of the overall proposal, would significantly improve views of the rear of the listed building, the settings of other listed buildings, and enhance both the character and the appearance of the Shrewsbury Conservation Area. As a consequence, the proposal would be in full accord with the intentions behind s.66(1) and 72(1) of the Act.
18. Bringing all those points together, I am content that the proposals in Appeal A are in accordance with the development plan and Policies MD12 (Natural Environment) and MD13 (Historic Environment) of the Shropshire Council Site Allocations and Management of Development Plan adopted in December 2015 in particular. There are no material considerations that point towards a decision contrary to the development plan in this case.
19. On that basis, I intend to allow Appeal A, subject to conditions.

Paul Griffiths

INSPECTOR

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