



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

Date: Monday, 9 September 2024

Committee: Northern Planning Committee

Date: Tuesday, 17 September 2024

Time: 2.00 pm

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

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

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

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

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

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

Tim Collard - Assistant Director – Legal and Governance

Members of the Committee

Joyce Barrow
Garry Burchett
Geoff Elner
Ted Clarke
Steve Charmley
Julian Dean
Roger Evans
Nat Green
Alex Wagner
Vince Hunt (Vice Chairman)
Paul Wynn (Chairman)

Substitute Members of the Committee

Roy Aldcroft
Gerald Dakin
Steve Davenport
Mary Davies
David Evans
Julia Evans
Nick Hignett
Pamela Moseley
Ed Potter
David Vasmer
Edward Towers

Your Committee Officer is:

Emily Marshall Committee Officer

Tel: 01743 257717

Email: emily.marshall@shropshire.gov.uk

AGENDA

1 Apologies for Absence

To receive apologies for absence.

2 Minutes

To confirm the Minutes of the meeting of the North Planning Committee held on 16th July 2024, attached, marked 2.

Contact: Emily Marshall on 01743 257717

3 Public Question Time

To receive any public questions or petitions from the public, notice of which has been given in accordance with Procedure Rule 14. The deadline for this meeting is Thursday, 12th September at 12 noon.

4 Disclosable Pecuniary Interests

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

5 Glovers Meadow, Maesbury Road, Industrial Estate, Oswestry, SY10 8NH (24/02237/FUL) (Pages 1 - 34)

Installation of a ground mounted 2 megawatt peak (MWp) solar farm to supply Arla Foods and all associated works

6 Proposed Residential Development, Land NW Of Honeyspot Farm, Rosehill Road, Stoke Heath, Shropshire (24/02619/OUT) (Pages 35 - 58)

Erection of single self-build dwelling and garage

7 9A Shrawardine, Shrewsbury, Shropshire, SY4 1AH (24/02715/AMP) (Pages 59 - 64)

Non Material Amendment for the removal of the existing chimney to planning permission 23/03587/FUL Erection of flat roof two-storey front extension to create a new entrance and interior remodelling of existing dwelling

8 Appeals and Appeal Decisions (Pages 65 - 78)

9 Date of the Next Meeting

To note that the next meeting of the North Planning Committee will be held at 2.00 pm on Tuesday 15th October 2024 in the Shrewsbury Room, Shirehall, Shrewsbury.



Committee and Date

Northern Planning Committee

17th September 2024

NORTHERN PLANNING COMMITTEE

Minutes of the meeting held on 16 July 2024

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

2.00 - 3.13 pm

Responsible Officer: Emily Marshall

Email: emily.marshall@shropshire.gov.uk Tel: 01743 257717

Present

Councillor Paul Wynn (Chairman)

Councillors Garry Burchett, Geoff Elnor, Ted Clarke, Julian Dean, Roger Evans, Nat Green, Steve Davenport (Substitute) (substitute for Joyce Barrow) and Nick Hignett (Substitute) (substitute for Vince Hunt), Colin Taylor (Substitute for Cllr Alex Wagner)

23 Apologies for Absence

Apologies for absence were received from Councillors Joyce Barrow, (substitute: Councillor Steve Davenport), Councillor Steve Charmley, Councillor Vince Hunt (Substitute: Councillor Nick Hignett) and Councillor Alex Wagner (Substitute: Councillor Colin Taylor).

24 Minutes

RESOLVED:

That the Minutes of the meeting of the North Planning Committee held on 16th July 2024 be approved as a correct record and signed by the Chairman.

25 Public Question Time

There were no public questions or petitions received.

26 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.

27 Colehurst Lake, Gorsty Lane, Colehurst, Market Drayton, Shropshire, TF9 2JD (24/01290/FUL)

The Senior Planning Officer introduced the application for the change of use of existing steel frame barn and extension to provide disabled access holiday accommodation on ground floor and tea room at first floor, together with provision of four glamping pitches and a compost amenity building.

Councillor Graham Bould, on behalf of Sutton Upon Tern Parish Council spoke in support of the proposal in accordance with Shropshire Council's Scheme for Public Speaking at Planning Committees.

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

Holly Cooper, the applicant spoke in support of the proposal in accordance with Shropshire Council's Scheme for Public Speaking at Planning Committees.

Having considered the submitted plans and listened to the comments made by all of the speakers, the majority of members expressed their support for the officer's recommendation to refuse the application. Members commented that they were concerned that the viability and sustainability of the proposed tea room had not been demonstrated and the development of the existing steel framed barn was tantamount to a new building construction.

RESOLVED:

That planning permission be refused, in accordance with the officer's recommendation, for the following reason.

The proposed disabled holiday accommodation and tearoom building is tantamount to a new building construction and will be located in open countryside and does not fall within or adjacent to any recognised settlement providing services or an established and viable tourism enterprise where accommodation or food and drink provision are required. As such the development would represent unsustainable development within the open countryside, conflicting with the Shropshire Core Strategy Policies CS5, CS6, CS8 and CS16 and SAMDev Plan policy MD11 as well as the overall aims and objectives of sustainable development as set out in the National Planning Policy Framework. There are no other material considerations which outweigh this conclusion in the overall planning balance.

28 Spenford House, Loppington, Shrewsbury, Shropshire, SY4 5NG (24/01734/LBC)

The Development Manager introduced the Listed Building Consent application for the removal of modern entrance porch and replace with oak enclosed porch.

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

RESOLVED:

That Listed Building Consent be granted subject to the conditions as set out in Appendix 1 of the officer's report.

29 Stone Grange Grinshill Shrewsbury Shropshire SY4 3BW (24/01938/FUL)

The Senior Planning Officer introduced the application for the erection of a three bay detached garage with room over and conversion of outbuilding to gym/entertainment room.

Members' attention was drawn to the information contained within the Schedule of Additional letters.

Mr Graham Moss, 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.

Having considered the submitted plans and listened to the comments made by all of the speakers, members unanimously expressed their support for the officer's recommendation, to refuse the application.

RESOLVED:

That planning permission be refused in accordance with the officer recommendation for the following reasons.

1. The proposed two storey building will sit forward of the main grade II* listed building it is intended to serve (Stone Grange) and occupies a prominent location in relation to the site context. Taking into account this site context in combination with the scale, height and fenestration details of the proposed building then it is considered by the Local Planning Authority that the proposed development would not be visually subservient to the principal grade II* listed building but rather will create an overly dominant feature that will not only adversely impact upon the visual character, appearance and setting of the listed building would further partially obscure the ability to view this important designated heritage asset from the road (particularly the from the north east approach) and cause harm to the significance of this designated heritage asset. No clear and convincing justification for any harm to the designated heritage asset has been provided. Further, it is considered that the harm would not be outweighed by any public benefits arising from development. Accordingly, it is considered that the proposal fails to comply with the requirements of adopted Shropshire Core Strategy policies CS5, CS6 and CS17; Site Allocation and Management of Development (SAMDev) Plan policies MD2 and MD13; the Council's SPD on the Type and Affordability of Housing; Section 16 of the National Planning Policy Framework and Section 66 of the Planning (Listed Buildings and Conservation Areas) Act 1990.

2. No ecology assessment/s, report/s or survey work has been submitted with the application. In the absence of adequate ecological information, or any information to enable the Council to conclude that such ecological information would not be required, then it is considered that the proposal is unacceptable in that inadequate ecological information has been submitted with the application to allow the impact of the development on statutorily protected species and the natural environment to be fully considered and assessed. Further, in the absence of adequate ecological information, it is not possible to conclude that the proposal will not cause unacceptable harm to protected species. Accordingly, the proposal is considered contrary to policies CS6 and CS17 of the adopted Shropshire Core Strategy 2011; policy MD12 of Site Allocations and Management of Development (SAMDev) Plan 2015 and the National Planning Policy Framework in relation to the requirement to

conserve, protect and enhance the natural environment and safeguard protected species.

30 Stone Grange, Grinshill, Shrewsbury, Shropshire, SY4 3BW (24/01939/LBC)

The Senior Planning Officer introduced the application for listed building consent for the erection of a three bay detached garage with room over and conversion of outbuilding to gym/entertainment room. Members' attention was drawn to the information contained within the Schedule of Additional letters.

Mr Graham Moss, 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.

Having considered the submitted plans and listened to the comments made by all of the speakers, members unanimously expressed their support for the officer's recommendation, to refuse the application.

RESOLVED:

That listed building consent be refused in accordance with the officer recommendation for the following reasons.

1. The proposed two storey building will sit forward of the main grade II* listed building it is intended to serve (Stone Grange) and occupies a prominent location in relation to the site context. Taking into account this site context in combination with the scale, height and fenestration details of the proposed building then it is considered by the Local Planning Authority that the proposed development would not be visually subservient to the principal grade II* listed building but rather will create an overly dominant feature that will not only adversely impact upon the visual character, appearance and setting of the listed building would further partially obscure the ability to view this important designated heritage asset from the road (particularly the from the north east approach) and cause harm to the significance of this designated heritage asset. No clear and convincing justification for any harm to the designated heritage asset has been provided. Further, it is considered that the harm would not be outweighed by any public benefits arising from development. Accordingly, it is considered that the proposal fails to comply with the requirements of adopted Shropshire Core Strategy policies CS5, CS6 and CS17; Site Allocation and Management of Development (SAMDev) Plan policies MD2 and MD13; the Council's SPD on the Type and Affordability of Housing; Section 16 of the National Planning Policy Framework and Section 66 of the Planning (Listed Buildings and Conservation Areas) Act 1990.

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unacceptable harm to protected species. Accordingly, the proposal is considered contrary to policies CS6 and CS17 of the adopted Shropshire Core Strategy 2011; policy MD12 of Site Allocations and Management of Development (SAMDev) Plan 2015 and the National Planning Policy Framework in relation to the requirement to conserve, protect and enhance the natural environment and safeguard protected species.

31 Appeals and Appeal Decisions

RESOLVED:

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

32 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 13th August 2024, in the Shrewsbury/Oswestry Room, Shirehall, Shrewsbury.

Signed (Chairman)

Date:

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Committee and date
Northern Planning Committee
17th September 2024.

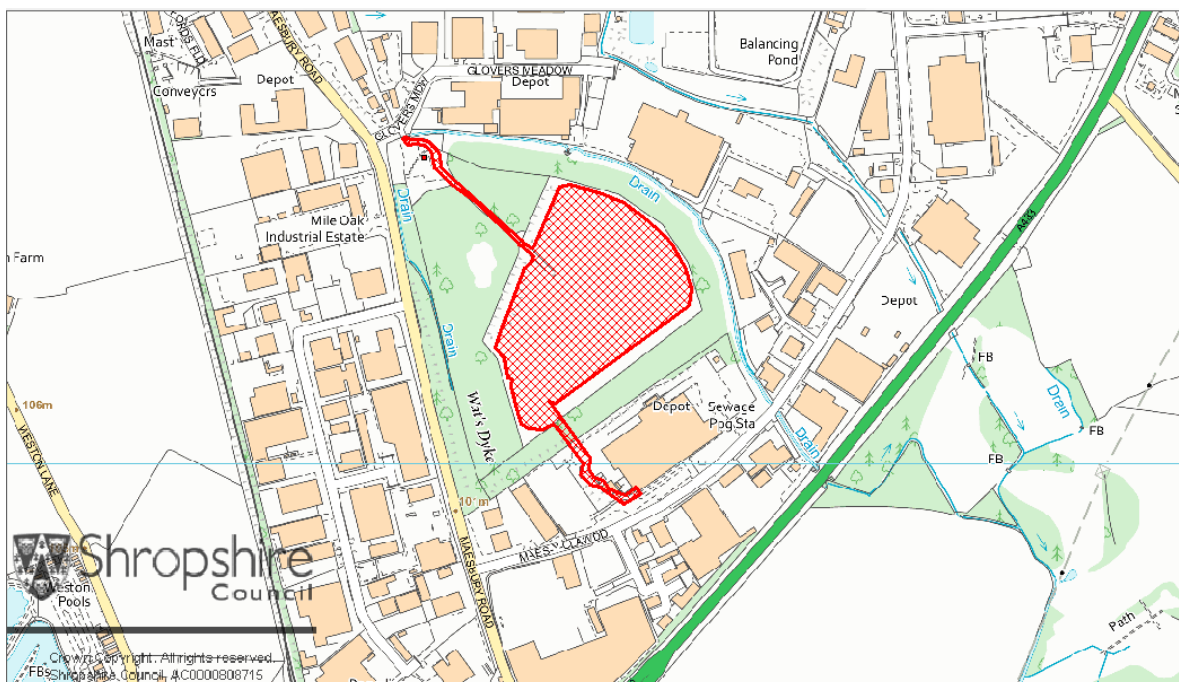
Development Management Report

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

Summary of Application

<u>Application Number:</u> 24/02237/FUL	<u>Parish:</u>	Oswestry Town
<u>Proposal:</u> Installation of a ground mounted 2 megawatt peak (MWp) solar farm to supply Arla Foods and all associated works		
<u>Site Address:</u> Glovers Meadow Maesbury Road Industrial Estate Oswestry SY10 8NH		
<u>Applicant:</u> Mr Simon Stallard		
<u>Case Officer:</u> Sara Robinson	<u>email:</u> sara.robinson@shropshire.gov.uk	

Grid Ref: 329991 - 328360



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

REPORT

1.0 THE PROPOSAL

- 1.1 The application seeks planning permission for the installation of a ground mounted 2 megawatt peak (MWp) solar farm to supply Arla Foods and all associated works.

2.0 SITE LOCATION/DESCRIPTION

- 2.1 The application site lies on the former refuse tip which has since been re-filled and used for sheep grazing.
- 2.2 The site is located to the south east of Glovers Meadow and is situated within Maesbury Road Industrial Estate, Oswestry .

3.0 REASON FOR COMMITTEE DETERMINATION OF APPLICATION

- 3.1 The application requires committee determination as the application is council lead and not related to a statutory function and therefore not in accordance with the scheme of delegation.

4.0 Community Representations

4.1 Consultee Comment

4.2 **SC Drainage & SUDS - 20/06/2024**

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 Councils Development Management Team.

Comments:

The submitted FRA and access track construction details are accepted. The surface water run-off from the solar panels is unlikely to alter the greenfield run-off characteristics of the site therefore the proposals are acceptable

4.3 **SC Developing Highways - 25/06/2024**

Recommendations (Date: 25/06/2024)

No objection Having given due regard to the appropriate local and national

planning policy guidance (in particular the National Planning Policy Framework), Shropshire Council as Highway Authority has concluded that the proposed development is acceptable subject to the development being constructed in accordance with the approved details and the following conditions and informative notes.

Conditions:

Traffic Management Plan

Development shall take place, including any works of demolition in accordance with the p published on 10.06.2024. The management of traffic shall be adhered to throughout the construction period.

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

Parking Loading, Unloading and Turning

The development hereby permitted shall not be brought into use until the areas shown on the Proposed Site Layout Drawing no. NCC-ES-PV-103-02 for parking, loading, unloading, and turning of vehicles has been provided properly laid out, hard surfaced and drained. The space shall be maintained thereafter free of any impediment to its designated use.

Reason: To ensure the provision of adequate vehicular facilities, to avoid congestion on adjoining roads and to protect the amenities of the area.

Observations/Comments:

The development proposes the formation of a solar array on the former Oswestry landfill site utilising the existing access off Glovers Meadow. The proposed development was the subject of a recent pre-planning enquiry under reference PREAPP/23/00831. From the highway perspective the documentation has been submitted and it is considered that, subject to the conditions listed above being included on any approval, there are no substantiative highway conditions upon which to base an objection on highway safety grounds.

Informative notes:

Works on, within or abutting the public highway

This planning permission does not authorise the applicant to:

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

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

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

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

specification for the works together and a list of approved contractors, as required.

4.4 **Landscaping Officer - 27/06/2024**

Thank you for sending this application for consultation.

We previously reviewed the Landscape Appraisal [Reports4Planning/Nottingham City Council 20.10.2022] and other supporting documents submitted with the application for a Screening Opinion [14.08.2023] as part of a previous consultation. We noted then that the Landscape Appraisal confirmed that it was not a complete Landscape and Visual Impact assessment.

We have reviewed the following documents submitted with this application [24/02237/FUL]:

Landscape Appraisal [Reports4Planning/Nottingham City Council, 20.10.2022]

Design and Access Statement [Shropshire Council, April 2024]

Block Plan [Custom Solar, 14.06.2024]

The original development submitted at Screening consisted of the installation of a 2MWp ground mounted Solar Photovoltaic array that extended across the entire field. However, the DAS provides an update at Section 3.4:

Due to advances in technology, the required site development area has significantly reduced with far fewer solar panels now proposed and only occupying the southern half of the field.

The solar array will now be located in the southern half of the field as illustrated on the Block Plan and Figure 9 of the DAS. However, we note that the Landscape Appraisal has not been updated to show the reduced extent of the solar array, nor is there a revised assessment to illustrate the potential reduction in likely landscape and visual impacts. We previously noted that that the proposed development has the potential to adversely impact the residential amenity of occupants of the Showmans Traveller site adjacent to the adjacent to the north east of the site, particularly during winter months when the screening potential of the deciduous vegetation is lower. However, given the reduced extent of the proposed solar array, and its location, it is likely that there will be a corresponding reduction in any adverse visual impacts.

We had recommended in our Screening Opinion that in order to assess the impacts of the proposed development, a proportionately scoped and executed landscape and visual appraisal [LVA] in support of an application be carried out by a suitably experienced chartered landscape architect in accordance with the best practice set out in GLVIA3 and supporting guidance. Whilst this has not been undertaken, we accept that the reduced scale of the proposed development will

likely result in a reduction of any adverse landscape and visual impacts, as concluded by the DAS at section 12.2.

4.5 **SC Environmental Protection - 09/07/2024**

Environmental Protection has identified the site and surrounding areas as potentially contaminated land under the Councils Environmental Protection Act

1990 Part 2A responsibilities and therefore having regard to the NPPF, the developer will need to demonstrate:

- a) a site is suitable for its proposed use taking account of ground conditions and any risks arising from land instability and contamination. This includes risks arising from natural hazards or former activities such as mining, and any proposals for mitigation including land remediation (as well as potential impacts on the natural environment arising from that remediation);
- b) after remediation, as a minimum, land should not be capable of being determined as contaminated land under Part IIA of the Environmental Protection Act 1990; and
- c) adequate site investigation information, prepared by a competent person, is available to inform these assessments.
- d) Where a site is affected by contamination or land stability issues, responsibility for securing a safe development rests with the developer and/or landowner.

The Environment Agency should be consulted on this planning application. This is because it is stated that the area of the site is 4.0 hectares, and the Environment Agency consultation matrix requires that if redevelopment of a site, larger than 2 hectares is upon a Principal Aquifer, with a potentially known identified previous contaminative use, then they are consulted.

The following two reports have been submitted in support of this planning application in respect of a ground mounted 2MWp solar farm, to supply Arla Foods and all associated works at Glovers Meadow, Maesbury Road Industrial Estate, Oswestry, SY10 8NH:

Reports4Planning; for Nottingham City Council; Preliminary Contamination Risk Assessment;

Land at Glovers Meadow, Oswestry, SY10 8NH; Report Ref: 20CLR5108CW, 26th January 2020;

WSP; for Shropshire Council; Ground Condition Assessment Report for the Installation of a SolarFarm at Maesbury Landfill Site; PROJECT NO. 70109410/600/B.1, August 2023.

The proposed development site is a former landfill site and was designed as a dilute and disperse landfill, with no basal liner. There is an existing landfill cap at the Site which is only between 0.8m and 2.0 metres of clay rich materials. The landfill cap reduces water infiltration into the waste mass. There are no landfill gas controls other than passive venting and there is no leachate management at the site.

Reports 4 Planning Preliminary Risk Assessment dated January 2020, that predates the WSP Ground Conditions Report dated August 2023, concludes that the Conceptual Site Model shows that the proposed development of a solar farm will not introduce any further increased risks to the existing risks presented to the wider environment. However, certain precautions will need to be adhered to including a no-dig approach to ensure that the clay cap of the site is left intact. The Preliminary Risk Assessment by Reports 4 Planning assumes that regular monitoring of ground gases, leachate levels and water quality are undertaken. This is not the case, and the last time environmental monitoring of the Maesbury

Road former landfill site was undertaken, was in 2018.

The WSP, Ground Condition Assessment Report, dated August 2023, references a Feasibility Analysis report, and recommends a ballasted mounting system. However, it is stated that there may be alternative methods given the ground conditions.

The supporting Shropshire Council, Design and Access Statement (April 2024) is considering the use of an alternative solution (Section 2.6) to ballast mounting (Tree System Ground Mountings and Solarports X Anchor) that allegedly reduces load on the landfill, reducing concerns around gas migration and leachate escape. This is subject to further testing.

It is imperative that the integrity of the cap is maintained and regardless of whatever mounting system is adopted, there remain concerns regarding the load (weight) placed on an above ground landfill site, and the potential impact that this might have on leachate breakout around the perimeter of the site or indeed, within the site boundary, where leachate is already seeping through the cap on the internal northwest facing slope (western edge of solar panels).

Environmental Protection are not qualified to comment on any settlement analysis calculations. Environmental Protection is not objecting to the proposed siting of a ground mounted solar array on the former Maesbury Road landfill site and in order to identify any potential impact, the development may have on the landfill site and surrounding area, environmental monitoring of existing gas monitoring boreholes, groundwater monitoring boreholes and surface water around the perimeter of the site, should be undertaken and the risks assessed.

Environmental Protection therefore recommends that the following be included as Conditions, should planning permission be granted:

Prior to commencement of the development, a monitoring plan of pollutant linkages shall be submitted to and approved in writing by the Local Planning Authority.

If contamination is found at any time during the lifetime of 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 current guidance - Land contamination: risk management (Environment Agency, October 2020; updated July 2023) 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.

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. The following link takes you to this document:

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

4.6 **SC Ecology - 09/07/2024**

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 (May 2024) found no signs of protected or notable species during the site survey. Precautionary working method statement with regards to nesting birds has been provided and will be strictly adhered to.

A biodiversity net gain assessment has been conducted for the site. A net gain of 1.20 habitat units (15.52%). The proposed gains will be achieved by improving the condition of the modified grassland from poor to moderate. Should the plans change, this will need to be reflected in the metric and the Local Planning Authority informed to ensure the minimum 10% gain has still been achieved.

Any external lighting to be installed on the building should be kept to a low level to allow wildlife to continue to forage and commute around the surrounding area. SC ecology require biodiversity net gains at the site in accordance with the NPPF and CS17. The installation of bat boxes/integrated bat tubes and bird boxes will enhance the site for wildlife by providing additional roosting habitat.

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

Bat and bird boxes condition

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

The following boxes shall be erected on the site:

- A minimum of 4 external woodcrete bat boxes or integrated bat bricks, suitable for nursery or summer roosting for small crevice dwelling bat species.
- A minimum of 6 artificial nests, of either integrated brick design or external box design, suitable for sparrows (32mm hole, terrace design), house martins (house martin nesting cups), swallows (swallow nesting cups) and/or small birds (32mm hole, standard design).

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

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

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 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 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 birds as provided in Section 5.1 of the Ecological Impact Assessment (Eco Tech, May 2024).

Reason: To ensure the protection of and enhancements for 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, tree removal and scrub removal should be carried out outside of the bird nesting season which runs from March to August inclusive.

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

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

General site informative for wildlife protection

Widespread reptiles (Adder, Slow Worm, Common Lizard and Grass Snake) are protected under the 1981 Wildlife and Countryside Act (as amended) from killing, injury and trade and are listed as Species of Principle Importance under Section 41 of the 2016 NERC Act. Widespread amphibians (common toad, common frog, smooth newt and palmate newt) are protected from trade. The European

hedgehog is a Species of Principal Importance under section 41 of the 2006 Natural

Environment and Rural Communities Act. Reasonable precautions should be taken during works to ensure that these species are not harmed.

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

If piles of rubble, logs, bricks, other loose materials or other potential refuges are to be disturbed, this should be done by hand and carried out during the active season (March to October) when the weather is warm. Areas of long and overgrown vegetation should be removed in stages. Vegetation should first be 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 reptiles or amphibians discovered should be allowed to naturally disperse. Advice should be sought from an appropriately qualified and experienced ecologist if large numbers of common reptiles or amphibians are present.

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

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

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

Landscaping informative

Where it is intended to create semi-natural habitats (e.g.

hedgerow/tree/shrub/wildflower planting), all species used in the planting proposal should be locally native species of local provenance (Shropshire or surrounding counties). This will conserve and enhance biodiversity by protecting the local floristic gene pool and preventing the spread of non-native species.

Please contact me, or one of the other Ecology team members, if you have any queries on the above.

4.7 **SC Conservation - 17/07/2024**

Nothing to say on the application from a built heritage perspective and concur with the findings of the HIA report submitted. You may wish to consult SC Archaeology as it is adjacent to Wats Dyke which is a Scheduled Monument, although it is also noted in the HIA that no harm to any designated heritage assets or their setting would arise from the proposed development (this include the Schedule Monument).

Therefore, no comments from a heritage perspective.

4.8 **SC Archaeology - 18/07/2024**

Officers have no comments on this application in regard to archaeological matters.

4.9 **SC Tree Team - 19/07/2024**

The proposed site is surrounded by an area of amenity woodland in early maturity. An Arboricultural Impact Assessment has been submitted with the application to demonstrate the impact of the development on existing trees, hedges and shrubs and to justify and mitigate any losses that may occur. The AIA indicates that the impact to the existing woodland is minimal in the short term with the only tree removal occurring along the access route and cable route, and overall this will not have a significant impact. There may be some long term issues as the trees grow and may shade the panels, but I believe that this can be addressed through appropriate management of the woodland, allowing some thinning around the edges, which could be undertaken in a way that would be beneficial to the habitat value of the woodland. There is little provision for new planting, but the active management of the woodland would provide a tangible benefit that would help to off_set the loss of open space and potential future woodland area. To ensure that this work is undertaken, I would advise that a management plan detailing objectives and future operations for the retained woodland be provided as a condition of any planning permission. It is also advised that the following tree protection condition is attached to any grant of planning permission.

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

occupation of the building for its permitted use.

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

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

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

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

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

4.10 **Environment Agency - 25/07/2024**

Thank you for referring the above application which we received on 8th July 2024.

We have reviewed the following information submitted in support of this application:

- Design and Access Statement, April 2024
- Preliminary Contamination Risk Assessment, Report Ref: 20CLR5108CW January 2020
- Ground Condition Assessment Report, PROJECT NO. 0109410/600/B.1, August 2023

We have no objection to the proposed development, subject to conditions.

The following comments are provided for your consideration, relating to the protection of controlled waters. Matters relating to human health should be directed to the Public Health team at the Local Authority.

Site context

The 1:50,000 scale geological map indicates that the bedrock underlying the site is

the Kinnerton Sandstone Formation which is designated as a Principal aquifer. Superficial deposits on site consist of Glaciofluvial Sheet Deposits, which is designated as a Secondary A aquifer.

The Oswestry Brook borders the site to the east.

The majority of the northern part of the site is located within source protection zone

3, relating to two potable water abstractions. Cont/d.. 2

There is a historical landfill located on site, named the Red House Field Landfill Site

which accepted inert, industrial, commercial, household, special and liquid sludge waste. As identified in the contamination report, contamination is highly likely on site.

Given the underlying Principal and Secondary A aquifer, any ground disturbance poses a risk to controlled waters receptors beneath the site and also the nearby surface watercourses.

Land contamination risk to controlled waters

Based upon the submitted information, we understand that the installation of the solar panels requires minimal ground disturbance with the surface ballasted method.

However, the proposed works do still have the potential to mobilise any existing contamination on site (likely originating from the historical landfill) or to introduce contamination during the works (e.g. fuel spills). Nonetheless, the likelihood of a contamination pathway is low due to the capping of the landfill and the minimal ground disturbance.

To safeguard controlled waters, given the sensitivity of the location for controlled waters receptors and the risk of contamination on site, we recommend that a watching brief is conducted during any earthworks/ground disturbance and any unsuspected contamination that is encountered is dealt with accordingly.

In addition, we recommend the following condition be included on any planning permission granted to deal with any significant contamination subsequently identified during development, which may represent a risk to controlled waters. This is in line with paragraph 180 of the NPPF.

CONDITION:

If during development, contamination not previously identified, is found to be present at the site then no further development (unless otherwise agreed in writing with the Local Planning Authority) shall be carried out until the developer has submitted, and obtained written approval from the Local Planning Authority, a Method Statement for remediation. The Method Statement must detail how this

unsuspected contamination shall be dealt with. A verification (validation) report demonstrating completion of the works set out in the method statement shall be submitted to and approved in writing by the Local Planning Authority. The report shall include results of any sampling and monitoring. It shall also include any plan (a “long-term monitoring and maintenance plan”) for longer term monitoring of pollutant linkages, maintenance and arrangements for contingency action and for the reporting of this to the Local Planning Authority.

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

Advice to applicant

The applicant should note that in accordance with Government policy detailed in the National Planning Policy Framework (paragraph 183), ‘where a site is affected by contamination or land stability issues, responsibility for securing a safe development End 3 rests with the developer and/or landowner’. Therefore, should any significant contamination subsequently become apparent then responsibility will remain with these parties.

We recommend the applicant follow the guidance set out in the attached document:

West Midlands Guidance Note for Developers – Sites Affected by Land Contamination

4.11 Public Comments

4.12 Oswestry Town Council - 23/07/2024

Oswestry Town Council welcomes the development with Members highlighting the suitability of the site for a solar array. Members also noted the need to ensure the safety of the site and the need to minimise the risk of fire.

4.13 Following the display of a site notice for the period of 21 days, no public representations were received at the time of writing this report.

5.0 THE MAIN ISSUES

- Siting, scale and design; and impact on landscape character
- Historic environment considerations
- Residential and local amenity considerations
- Highways and access considerations
- Ecology issues
- Drainage and flood risk considerations
- Other matters

6.0 OFFICER APPRAISAL

6.1 Principle of development

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

- 6.1.5 The solar farm would generate 2 MW to supply Arla Foods with any surplus energy exported to the national grid. This additional capacity would make a welcome contribution towards the approximate total of 5,000MW installed capacity required to make the county self-sufficient in renewable energy. The application details note that approximately 2,004kWp of solar energy would be generated, which is equivalent to a carbon saving of approximately 418,559Kg of CO₂ emissions per year.
- 6.1.6 The application has been screened in accordance with Environmental Impact Assessment, (EIA), regulations 2017 in accordance with Council reference number 23/03604/SCR and this concluded that the area of the development will exceed the indicative criteria as set out in the EIA Regulations Schedule 2 – 3(a) for determining significance. With reference to the guidance set out in the NPPG and noting the considerations set out above in this assessment, it is concluded that an EIA is not required. The scheme has been reduced since the original screening and it is considered that the Screening Opinion remains valid.
- 6.2 **Site selection and agricultural land quality considerations**
- 6.2.1 Core Strategy policy CS6 requires that development proposals make the most effective use of land and safeguards natural resources including high quality agricultural land. The NPPF states that the economic and other benefits of the best and most versatile (BMV) agricultural land should be taken into account in planning decisions (para. 180. It states that where significant development of agricultural land is demonstrated to be necessary, areas of poorer quality land should be preferred to those of a higher quality, (footnote 62. In relation to solar farms, Planning Practice Guidance advises that local planning authorities should encourage the effective use of land by focussing these developments on previously developed and non-agricultural land, provided that it is not of high environmental value.
- 6.2.2 The site forms a brownfield site which was formerly a refuse tip and is now used for sheep grazing. The Government's Low Carbon and Renewable Energy Guide establishes a presumption in favour of brownfield over greenfield locations for 'larger scale' photovoltaic sites.
- 6.2.3 According to the Provisional Agricultural Land Classification (ALC) (England) Map, the application site is 'urban.' This is due to the application site having previously been utilised as a landfill site, largely for domestic, commercial and industrial waste generated within the local area. Therefore, the proposal does not strictly utilise agricultural land, but utilises former development land, avoiding any potential impact upon agricultural land in the County.
- 6.2.4 It is considered that the proposed development complies with the guidance outlined above.

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

6.3.1 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.

6.3.2 Policy CS17 also seeks to protect and enhance the diversity, high quality and local character of Shropshire's natural environment and to ensure no adverse impacts upon visual amenity, heritage and ecological assets.

6.3.3 The proposed solar farm will be well screened by existing mature trees and hedgerow boundaries and is not readily visible.

6.3.4 A Landscape and Visual Impact Assessment (LVIA), Landscape Appraisal (reports for planning), undertaken by /Nottingham City Council 20.10.2022, has been submitted with the planning application.

6.3.5 The LVIA was assessed by SC Landscape Officer and has noted that the site development area has significantly reduced with far fewer solar panels now proposed and only occupying the southern half of the field. The solar array will now be located in the southern half of the field as illustrated on the Block Plan and Figure 9 of the DAS. However, the Landscape Officer notes that the Landscape Appraisal has not been updated to show the reduced extent of the solar array, nor is there a revised assessment to illustrate the potential reduction in likely landscape and visual impacts. The Landscape Officer previously noted that the proposed development has the potential to adversely impact the residential amenity of occupants of the Showmans Traveller site adjacent to the adjacent to the northeast of the site, particularly during winter months when the screening potential of the deciduous vegetation is lower. However, given the reduced extent of the proposed solar array, and its location, it is likely that there will be a corresponding reduction in any adverse visual impacts. The Landscape Officer had recommended in the Screening Opinion that in order to assess the impacts of the proposed development, a proportionately scoped and executed landscape and visual appraisal [LVA] in support of an application be carried out by a suitably experienced chartered landscape architect in accordance with the best practice set out in GLVIA3 and supporting guidance. Whilst this has not been undertaken, the Landscape Officer accepts that the reduced scale of the proposed development will likely result in a reduction of any adverse landscape and visual impacts, as concluded by the DAS at section 12.2.

6.3.6 In light of the above it is considered that the proposed development is unlikely to result in an unacceptable visual impact.

6.4 Historic environment considerations

6.4.1 Core Strategy policies CS6 and CS17 and SAMDev Plan policies MD2 and MD13

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

6.4.2 The application is accompanied by Heritage Impact Assessment undertaken by H R HANNAFORD MCI(A), Archaeology Service, Historic Environment Team, Shropshire Council. The information has been assessed by SC Archaeology as well as SC Conservation.

6.4.3 Officers do not consider there to be any above ground heritage issues arising from this application and concur with the findings of the HIA report submitted. The HIA concludes that there will be no intervisibility and no impact, either directly or through development within the setting, upon Wats Dyke.

6.4.4 It is therefore considered that the proposed development would comply with Local Plan Policy MD13 and the NPPF.

6.5 Residential and local amenity considerations

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

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

6.5.2 There is no information in national planning policy or guidance to suggest that this should be a particular consideration in solar farms application, and no evidence has been put forward that the proposal would result in adverse health risks.

6.5.3 The nearest residents are those at Glovers Meadow adjacent to the means of access. It is noted that the proposed solar panels will be sited approximately 150m away beyond the trees to the south. It is therefore considered that once the development is complete the proposed development will not result in an unacceptable impact upon residential amenity.

6.5.4 It is noted that the construction management plan restricts the hours of operation to between 8:00 and 18:00 Monday to Friday with no working or deliveries on Saturdays, Sundays and Bank Holidays. It is considered that these hours of operation during the construction will reduce any disruption to those occupying Glovers Meadow.

6.5.5 Planning Practice Guidance on renewable energy recognises that solar farms are

normally temporary structures and that planning conditions can be used to ensure that the installations are removed when no longer in use and the land is restored to its previous use (para. 013). It is recommended that a condition is included on the decision notice if permission is granted to require that the panels are removed at the end of the temporary 40 year period and that the land is restored in accordance with a decommissioning and site reinstatement scheme to be approved.

6.6 Highways and access considerations

6.6.1 SC Highways have been consulted as part of the proposed development and have raised no objection having given due regard to the appropriate local and national planning policy guidance (in particular the National Planning Policy Framework).

6.6.2 Shropshire Council as Highway Authority has concluded that the proposed development is acceptable subject to the development being constructed in accordance with the approved details and the recommended conditions to secure the development being undertaken in accordance with the Traffic Management Plan as well as parking, loading, unloading and turning as well as informative notes.

6.7 Ecology Issues

6.7.1 Core Strategy policy CS17 (Environmental Networks) seeks to protect and enhance the diversity, high quality and local character of the natural environment, and to avoid significant adverse impact on environmental assets. SAMDev Plan policies MD2 and MD12 require that development enhances, incorporates or restores natural assets. Para. 180 of the NPPF states that development should contribute to and enhance the natural environment by minimising impacts on and providing net gains for biodiversity.

6.7.2 SC Ecology have been consulted as part of this application and have raised no objection to the proposed development. The SC Ecologist has reviewed the supporting Ecological Impact Assessment carried out by Eco Tech (May 2024) which found no signs of protected or notable species during the site survey. Precautionary working method statement with regards to nesting birds has been provided and will be strictly adhered to.

6.7.3 A biodiversity net gain assessment has been conducted for the site. A net gain of 1.20 habitat units (15.52%). The proposed gains will be achieved by improving the condition of the modified grassland from poor to moderate. Should the plans change, this will need to be reflected in the metric and the Local Planning Authority informed to ensure the minimum 10% gain has still been achieved.

6.7.4 In light of the above and subject to the inclusion of appropriately worded conditions to secure bat and bird boxes, lighting plan, the development is undertaken in accordance with the method statement and relevant informative

notes it is considered that the proposed development complies with planning policies CS17 and MD2.

6.8 **Drainage and flood risk considerations**

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

6.8.2 Due to the scale of the development a Flood Risk Assessment has been submitted in support of the application.

6.8.3 SC SUDS and Drainage have been consulted as part of this application and have reviewed the Flood Risk Assessment. The SC SUDS and Drainage Officer notes the surface water run-off from the solar panels is unlikely to alter the greenfield run-off characteristics of the site therefore the proposals are acceptable on drainage matters.

6.9 **Other**

6.9.1 Land Contamination

SC Environmental Protection and the Environment Agency have been consulted as part of this application due to the potential of land contamination arising from the sites previous use as a former landfill site.

6.9.2 The supporting Shropshire Council, Design and Access Statement (April 2024) is considering the use of an alternative solution (Section 2.6) to ballast mounting (Tree System Ground Mountings and Solarports X Anchor) that allegedly reduces load on the landfill, reducing concerns around gas migration and leachate escape. This is subject to further testing.

6.9.3 It is imperative that the integrity of the cap is maintained and regardless of whatever mounting system is adopted, there remain concerns regarding the load (weight) placed on an above ground landfill site, and the potential impact that this might have on leachate breakout around the perimeter of the site or indeed, within the site boundary, where leachate is already seeping through the cap on the internal northwest facing slope (western edge of solar panels).

6.9.4 SC Environmental Protection is not objecting to the proposed siting of a ground mounted solar array on the former Maesbury Road landfill site and in order to identify any potential impact, the development may have on the landfill site and surrounding area, environmental monitoring of existing gas monitoring boreholes, groundwater monitoring boreholes and surface water around the perimeter of the site, should be undertaken and the risks assessed.

6.9.5 Environmental Protection therefore recommends a condition be attached to a decision should planning permission be granted.

- 6.9.6 The Environment Agency has also been consulted as part of the application process.
- 6.9.7 The Environment Agency have stated that based upon the submitted information, we understand that the installation of the solar panels requires minimal ground disturbance with the surface ballasted method.
- 6.9.8 However, the proposed works do still have the potential to mobilise any existing contamination on site (likely originating from the historical landfill) or to introduce contamination during the works (e.g. fuel spills). Nonetheless, the likelihood of a contamination pathway is low due to the capping of the landfill and the minimal ground disturbance.
- 6.9.9 To safeguard controlled waters, given the sensitivity of the location for controlled waters receptors and the risk of contamination on site, The Environment Agency recommend that a watching brief is conducted during any earthworks/ground disturbance and any unsuspected contamination that is encountered is dealt with accordingly. In addition, we recommend the following condition be included on any planning permission granted to deal with any significant contamination subsequently identified during development, which may represent a risk to controlled waters. This is in line with paragraph 180 of the NPPF. SC Environmental Protection have requested a similar condition to be attached to any grant of permission. Therefore it is recommended that an appropriately worded condition be attached to any grant of permission.
- 6.9.10 Trees
The SC Tree Officer has been consulted as part of this application due to the potential impact to trees. The AIA indicates that the impact to the existing woodland is minimal in the short term with the only tree removal occurring along the access route and cable route, and overall this will not have a significant impact. There may be some long-term issues as the trees grow and may shade the panels, however the Tree Officer believes that this can be addressed through appropriate management of the woodland, allowing some thinning around the edges, which could be undertaken in a way that would be beneficial to the habitat value of the woodland. There is little provision for new planting, but the active management of the woodland would provide a tangible benefit that would help to offset the loss of open space and potential future woodland area. To ensure that this work is undertaken, the SC Tree Officer advises that a management plan detailing objectives and future operations for the retained woodland be provided as a condition of any planning permission.
- 6.9.11 Subject to the inclusion of an appropriately worded condition it is considered that the proposed development complies with relevant planning policies.

7.0 CONCLUSION

Weighing up all the material planning considerations, it is considered that the proposed development complies with relevant planning policies. Subject to the

inclusion of the appropriately worded conditions and informative notes as discussed in this report, the granting of planning permission is recommended subject to the conditions as set out in appendix one attached to this report.

8.0 Risk Assessment and Opportunities Appraisal

8.1 Risk Management

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

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

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

8.2 Human Rights

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

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

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

8.3 Equalities

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

number of 'relevant considerations' that need to be weighed in Planning Committee members' minds under section 70(2) of the Town and Country Planning Act 1990.

9.0 Financial Implications

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

10. Background

Relevant Planning Policies

Central Government Guidance:

West Midlands Regional Spatial Strategy Policies:

Core Strategy and Saved Policies:

RELEVANT PLANNING HISTORY:

OS/07/14833/CMA Alterations to household recycling centre to meet health and safety requirements by relocating recycling facilities, providing additional vehicle circulation space and a new route through the site requiring the removal of an existing hedgerow and trees and surfacing of additional areas (and retention of existing office building) WDN 23rd November 2007

12/03938/FUL Proposed change of use to residence and base for travelling showpeople WDN 7th November 2012

14/00369/COU Change of use from refuse tip to sale of static and touring caravans GRANT 9th April 2014

14/03964/MAW Installation of plant comprising a bio-oxidation unit for a temporary period as part of a landfill gas treatment operation GRANT 16th December 2014

19/04688/FUL Change of use of land to provide business base/residential accommodation for a local family of travelling show people GRANT 28th May 2020

PREAPP/23/00831 Installation of ground mounted 2MWp solar PV and storage battery to supply Arla Foods and all associated works. PREAIP 10th November 2023

24/02237/FUL Installation of a ground mounted 2 megawatt peak (MWp) solar farm to supply Arla Foods and all associated works PCO

SC/MO2007/14833/OS Changes to the Household Recycling Centre to meet Health and Safety requirements by relocating recycling facilities, providing additional vehicle circulation space and a new route through the site requiring the removal of an existing hedgerow and trees and surfacing of additional areas (and retention of existing office building) WDN 22nd November 2007

11. Additional Information

View details online: <http://pa.shropshire.gov.uk/online-applications/applicationDetails.do?activeTab=summary&keyVal=SEQ2CFTDIAE00>

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 Schofield
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Local Member

Cllr John Price Cllr Chris Schofield

Appendices APPENDIX 1 - Conditions

APPENDIX 1**Conditions****STANDARD CONDITION(S)**

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

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

2. The development shall be carried out strictly in accordance with the approved plans, drawings and documents as listed in Schedule 1 below.

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

3. Development shall take place, including any works of demolition in accordance with the Traffic Management Statement published on 10.06.2024. The management of traffic shall be adhered to throughout the construction period.

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

4. All works to the site shall occur strictly in accordance with the mitigation and enhancement measures regarding birds as provided in Section 5.1 of the Ecological Impact Assessment (Eco Tech, May 2024).

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

CONDITION(S) THAT REQUIRE APPROVAL BEFORE THE DEVELOPMENT COMMENCES

5. Prior to commencement of the development, a monitoring plan of pollutant linkages shall be submitted to and approved in writing by the Local Planning Authority.

If contamination is found at any time during the lifetime of 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 current guidance - Land contamination: risk management (Environment Agency, October 2020; updated July 2023) 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. Reason: To ensure that risks from land contamination to the future users of the land and neighbouring land are minimised, together with those to controlled waters, property and ecological systems, and to ensure that the development can be carried out safely without unacceptable risks to human health and offsite receptors.

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

6. 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 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 and thereafter retained for the lifetime of the development. Reason: To minimise disturbance to bats, which are European Protected Species.

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

- A minimum of 4 external woodcrete bat boxes or integrated bat bricks, suitable for nursery or summer roosting for small crevice dwelling bat species.
- A minimum of 6 artificial nests, of either integrated brick design or external box design, suitable for sparrows (32mm hole, terrace design), house martins (house martin nesting cups), swallows (swallow nesting cups) and/or small birds (32mm hole, standard design).

The boxes shall be sited in suitable locations, with a clear flight path and where they will be unaffected by artificial lighting. The boxes shall thereafter be maintained for the lifetime of the development. Reason: To ensure the provision of roosting and nesting opportunities, in accordance with MD12, CS17 and section 180 of the NPPF.

8. The development hereby permitted shall not be brought into use until the areas shown on the Proposed Site Layout Drawing no. NCC-ES-PV-103-02 for parking, loading, unloading, and turning of vehicles has been provided properly laid out, hard surfaced and drained. The space shall be maintained thereafter free of any impediment to its designated use. Reason: To ensure the provision of adequate vehicular facilities, to avoid congestion on adjoining roads and to protect the amenities of the area.

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

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

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

b) No works associated with the development permitted will commence and no equipment, machinery or materials will be brought onto the site for the purposes of said development until a Tree Protection Plan and Arboricultural Method Statement prepared in accordance with and meeting the minimum tree protection requirements recommended in BS5837: 2012 or its current equivalent have been submitted and approved in writing by the Local Planning Authority. All tree

protection measures detailed in the approved Tree Protection Plan and Arboricultural Method Statement must be fully implemented as approved before any equipment, machinery or materials are brought onto the site for the purposes of the development. All approved tree protection measures must be maintained throughout the development until all equipment, machinery and surplus materials have been removed from the site. Nothing shall be stored or placed in any area

fenced in accordance with this condition and the ground levels within those areas shall not be altered nor any excavation be made, without the prior written consent of the Local Planning Authority.

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

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

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

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

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

(c) Not less than 6 months before the 40th anniversary of the date of first export, or within 12 months of the cessation of electricity generation at the site, whichever is the sooner, a decommissioning and site restoration scheme shall be submitted to the local planning authority

for approval. The submitted scheme shall include details of timescales for decommissioning and site restoration, and shall be implemented in accordance with the approved details.

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

Informatives

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

2. The above conditions have been imposed in accordance with both the policies contained within the Development Plan and national Town & Country Planning legislation.

3. Where there are pre commencement conditions that require the submission of information for approval prior to development commencing at least 21 days notice is required to enable proper consideration to be given.

4. 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 £145 per request, and £43 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.

5. Works on, within or abutting the public highway

This planning permission does not authorise the applicant to:

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

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

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

Please note Shropshire Council require at least 3 months notice of the applicant's intention to commence any such works affecting the public highway so that the applicant can be provided

with an appropriate licence, permit and/or approved specification for the works together and a list of approved contractors, as required.

6. Environmental Protection

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. The following link takes you to this document:

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

7. Nesting birds informative

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

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

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

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

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

General site informative for wildlife protection

Widespread reptiles (Adder, Slow Worm, Common Lizard and Grass Snake) are protected under the 1981 Wildlife and Countryside Act (as amended) from killing, injury and trade and are listed as Species of Principle Importance under Section 41 of the 2016 NERC Act. Widespread amphibians (common toad, common frog, smooth newt and palmate newt) are protected from trade. The European hedgehog is a Species of Principal Importance under section 41 of the 2006 Natural

Environment and Rural Communities Act. Reasonable precautions should be taken during works to ensure that these species are not harmed.

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

If piles of rubble, logs, bricks, other loose materials or other potential refuges are to be disturbed, this should be done by hand and carried out during the active season (March to October) when the weather is warm. Areas of long and overgrown vegetation should be removed in stages. Vegetation should first be strimmed to a height of approximately 15cm and then left for 24 hours to allow any animals to move away from the area. Arisings should then be removed from the site or placed in habitat piles in suitable locations around the site. The vegetation can then be strimmed down to a height of 5cm and then cut down further or removed as required. Vegetation removal should be done in one direction, towards remaining vegetated areas (hedgerows etc.) to avoid trapping

wildlife.

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

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

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

animal is trapped.

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

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

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

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

Landscaping informative

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

Please contact me, or one of the other Ecology team members, if you have any queries on the above.

Demi Cook

Planning Ecologist

Shropshire Council

Tel: 01743 254316

Email: demi.cook@shropshire.gov.uk

8. Environment Agency Advice to applicant

The applicant should note that in accordance with Government policy detailed in the National Planning Policy Framework (paragraph 183), 'where a site is affected by contamination or land stability issues, responsibility for securing a safe development End 3 rests with the developer and/or landowner'. Therefore, should any significant contamination subsequently become apparent then responsibility will remain with these parties.

We recommend the applicant follow the guidance set out in the attached document:

West Midlands Guidance Note for Developers - Sites Affected by Land Contamination

Guidance Note for Developers/Consultants - Sites Affected by Land Contamination (West Midlands Area)

Overview

This advice applies to sites where land contamination may be present as a result of previous or current land uses. It relates to the protection of ground and surface waters ('Controlled Waters', as defined under the Water Resources Act 1991). For Human Health matters seek advice from the Council's Public Protection / Environmental Health Department.

Government Policy, as detailed in the National Planning Policy Framework takes a precautionary approach to land contamination (See NPPF paragraphs 180, 189-190 and the 'Land Affected by Contamination' section of the National Planning Practice Guidance [NPPG]). Before the principle of development can be determined, land contamination should be investigated to see whether it could preclude certain development due to environmental risk or cost of clean-up (remediation).

Where contamination is known or suspected (see the Land Contamination DoE Industry profiles) , a desk study, investigation, remediation and other works may be required to enable safe development (Paragraph 189 of the NPPF).

Minimum requirements for submission with a planning application are a desk study and preliminary risk assessment, such as a site walkover or conceptual model. Site Investigation and Remediation Strategy reports may be required for submission with a planning application for sensitive land use types or where significant contamination or uncertainty is found.

We recommend that proposers should:

1. Follow the risk management framework provided in Land contamination: risk management (LCRM) (previously known as 'CLR11'), when dealing with land affected by contamination.
2. Refer to the Environment Agency Guiding principles for land contamination for the type of information that we required in order to assess risks to controlled waters from the site. The Local Authority can advise on risk to other receptors, such as human health.
3. Consider using the National Quality Mark Scheme for Land Contamination Management which involves the use of competent persons to ensure that land contamination risks are appropriately managed.

Applicants should contact the Council's Public Protection / Environmental Health team who may hold records on known/potential land contamination. If during site works, contaminated material is suspected, you are advised to stop works and seek further guidance. Remediation of contaminated land may also require an authorisation under environmental permitting legislation. We do not recommend individual environmental consultants but the 2 following web link may help find environmental consultants that undertake contaminated land assessments: <http://www.endsdirectory.com/>

Information that should be submitted with planning applications

Preliminary Risk Assessment: As a minimum the applicant must submit a Preliminary Risk Assessment. (This is also known as a Phase 1 Desk Study, and may include a site walkover.)

Preliminary Risk Assessments should include:

- o Details of the current and former uses of the site (usually referring to an Envirocheck - or similar - report and a site walkover).

- o Discussion of the risks posed by the site to 'Controlled Waters' receptors i.e. conclusions regarding the possible / likely sources of contamination that may be present based on the uses of the site and walkover, the likely contaminant pathways and the potential 'Controlled Waters' receptors.
- o Create a rough outline of the situation (known as a 'conceptual model'), e.g. a diagram that includes the most important information about the land, the contamination, what it can harm and how.
- o Consideration of potential options to deal with any risks posed by the site to 'Controlled Waters' receptors e.g. breaking the source-pathway-receptor linkage. This does not need to be a full remedial options appraisal but does need to demonstrate that the developer understands the issues that may be encountered and the possible scale of remediation.

Please refer to the contaminated land pages on GOV.UK for more information.

The conclusions of the report should contain recommendations on how the contamination, will be dealt with through the development so that the site can be made safe for users and the environment and will not cause or exacerbate pollution.

In some cases this information may be sufficient to determine whether the principle of development is acceptable subject to planning conditions to secure the conclusions of the report, such as further detailed investigation, site remediation and validation.

In other cases there may be insufficient information at this stage to make a decision on the application, and more information may be required prior to determination. This is more likely to be the case if the site is particularly contaminated, the site setting is more sensitive or the end use proposed is particularly sensitive to contamination. In these cases the applicant will need to submit more detailed information.

Site Investigation Report: The next stage of more detailed information is a Site Investigation Report. (This is also known as a Phase 2 Detailed Site Investigation.) The 'Detailed Investigation' phase is the on-site validation of the conceptual model. Through intrusive investigation, chemical testing and quantitative risk assessment, the Phase 2 study can confirm possible pollutant linkages. It should also provide appropriate remediation options.

There are two stages:

- o generic quantitative risk assessment - to collect more site information for comparison with general standards, also known as generic assessment criteria (GAC). This will help improve your conceptual model and decide if the level of risk needs more detailed assessment or a plan for dealing with the contamination.
- o a detailed quantitative risk assessment - to collect more site information for comparison with bespoke standards, also known as site specific assessment criteria (SSAC). This will help you decide on options and a plan to deal with any contamination. These options could provide a consideration of likely costs.

For more complex sites, additional information on the remediation measures / remedial actions may be required before permission can be granted. This is outlined below.

Meeting and/or detailed document review

If you would like to discuss your proposals further, or for us to review technical reports/documents, this will be chargeable in line with our cost recovery service. This may help to ensure that they are comprehensive before formal submission or where concerns have been raised on a planning application.

Please contact our Sustainable Places team directly by email at:
<WestMidsPlanning@environment-agency.gov.uk>

Discharge of conditions after permission is granted

Where planning conditions have been imposed to deal with further investigation, remediation, validation and monitoring, we can offer advice prior to your formal submission. This will be chargeable in line with our cost recovery service. Please contact us on the details above.

Once permission has been granted subject to conditions, the developer will need to deal with the contamination on site. This is the remediation phase. The remediation phase of the process is generally split into two parts - remediation and validation.

Remediation Strategy: This is a document detailing the objectives, methodology and procedures of the proposed remediation works. (It may also be called a Remediation Method Statement or Remedial Actions Statement or Report.) Where necessary it should also include a verification plan that provides details of the data that will be collected in order to demonstrate that the works set out in the Remediation Strategy are complete and identify any requirements for longer-term monitoring of pollutant linkages, maintenance and arrangements for contingency action. This should include any proposed phasing of demolition or commencement of other works to ensure development occurs in the right parts of the site in the correct sequence to ensure pollution is not caused. The developer should submit this information for approval before any works commence. Once this has been submitted and approved as part of the discharge of conditions application the development can proceed in the way the Remediation Strategy has set out.

Validation Report: Following completion of the works, the developer must submit a Validation Report as part of the discharge of conditions application. (It may also be called a Verification Report.) This document demonstrates that the works have been carried out satisfactorily in accordance with the Remediation Method Statement and that the remediation targets have been achieved. In most cases this will allow the planning conditions to be discharged in full.

Monitoring Programme: In some cases a programme of monitoring is required as part of the remediation phase, or as part of the validation to demonstrate the site has been satisfactorily remediated. Sometimes monitoring may be required for a longer time period after the development has been completed. The Remediation Method Statement (and possibly the earlier Preliminary Risk Assessment and Site Investigation Reports) should have made clear where this will be necessary and established in detail what will be involved.) Monitoring may be necessary for landfill gas, groundwater and surface water (such as taking samples from a watercourse on a regular basis over a set period of time). Where these measures are necessary the planning conditions should include this, and in some cases a Section 106 Planning Agreement may be a more appropriate mechanism for securing necessary monitoring, such as when monitoring from off-site locations is required or if it is required for a particularly long time period.

Re-use of materials and the Environmental Permitting Regulations 2016

Remediation of contaminated land may require an authorisation under the Environmental Permitting Regulations 2016. Further information can be found at the following links:

- o <https://www.gov.uk/government/collections/standard-rules-environmental-permitting#materialsrecovery-and-recycling>
- o <https://www.gov.uk/guidance/check-if-you-need-an-environmental-permit>
- o <https://www.gov.uk/government/publications/deployment-form-for-land-and-groundwater-remediation>

Under the CL:AIRE ('Contaminated Land: Applications in Real Environments') Code of Practice materials should be re-used on site in a sustainable way. See information at:

<http://www.claire.co.uk/>

If contaminated / waste material needs to be removed from the site it should be deposited at a Permitted waste management facility. Records of any transfer/deposit of waste should be included in the Validation Report.

Sources of further information and guidance

Environment Agency technical guidance on land contamination:

<https://www.gov.uk/government/collections/land-contamination-technical-guidance>

The above webpage includes some of the following:

- o Guiding Principles for Land Contamination

<https://www.gov.uk/government/publications/managing-and-reducing-land-contamination>

- o Land contamination: risk management (LCRM) (previously known as 'CLR11')

- o Planning Practice Guidance on Land Affected by Contamination

<https://www.gov.uk/guidance/land-affected-by-contamination>

- o Pollution Prevention Guidelines (PPG27) - Installation, decommissioning and removal of underground storage tanks (withdrawn but available in the National Archives)

<http://webarchive.nationalarchives.gov.uk/20140328084622/http://cdn.environmentagency.gov.uk/pmho0402bgsh-e-e.pdf>

Environment Agency Guidance "Groundwater Protection" (previously known as 'GP3')

<https://www.gov.uk/government/collections/groundwater-protection>

DEFRA Guidance relating to Part 2 A of the Environmental Protection Act:

https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/223705/pb13735-cont-land-guidance.pdf and

<http://randd.defra.gov.uk/Default.aspx?Menu=Menu&Module=More&Location=None&Complete=0&ProjectID=18341>

Last Updated: November 2021. Contact: Environment Agency, Sustainable Places Team, West Midlands

Area. WestMidsPlanning@environment-agency.gov.uk

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Northern Committee
September 17th 2024.

Development Management Report

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

Summary of Application

Application Number: 24/02619/OUT	Parish:	Stoke Upon Tern
Proposal: Erection of single self-build dwelling and garage		
Site Address: Proposed Residential Development Land NW Of Honeyspot Farm Rosehill Road Stoke Heath Shropshire		
Applicant: Mrs Margaret McNulty		
Case Officer: Jane Preece	email: jane.preece@shropshire.gov.uk	

Grid Ref: 365678 - 329848

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

REPORT

1.0 THE PROPOSAL

- 1.1 The application is made in outline and seeks consent for the 'Erection of single self-build dwelling and garage. All matters are reserved for later approval.
- 1.2 The application follows on from an earlier outline application that sought consent for the erection of two dwellings, associated garages and amenity land, under application reference 23/02669/OUT. Application ref 23/02669/OUT was refused on 11th August 2023 for the following reason/s:

'Within the adopted development plan the Community Hub of Stoke Heath has been identified as able to accommodate additional sustainable housing growth throughout the adopted development plan period to 2026 with a guideline figure of 20-25 houses, with this being delivered through the allocation of one site (land off Dutton Close) together with development of limited infilling, groups of houses and conversions which may be acceptable on suitable sites within Stoke Heath, as set out in SAMDev Plan policy S11.2(vi). However, as evidenced within Shropshire Council's Five Year Housing Land Supply Statement of March 2023 and with reference to sites since having been granted planning permission, the deliverable housing guideline figure for the hub has already been significantly exceeded. Whilst increases on the guideline figure are acceptable on occasions, the benefits and impacts of the development, including the cumulative impact of this increase, must be considered. On this occasion, it is considered that the proposal for a further two dwellings on the application site in an area that has already significantly surpassed its housing guideline, by around three-fold, would unacceptably add to the pressure on local infrastructure and amenities and push community goodwill towards breaking point. This harm is not considered to be outweighed by the limited social and economic benefits two new market houses at the site would provide. For these reasons and when assessed against adopted development plan policies as a whole, the development is considered unsustainable and fails to comply with adopted local plan policies CS1 and CS4 of the Shropshire Core Strategy; MD1, MD3 and S11.2(vi) of the Site Allocations and Management of Development (SAMDev) Plan; and the overall aims and objectives of the Stoke upon Tern Neighbourhood Plan and National Planning Policy Framework.'

- 1.3 Concurrent with outline application reference 23/02669/OUT another outline application for the erection of a single dwelling on land to the south was also made by the same applicant, reference 23/02633/OUT, and refused for the same reason/s. However, an appeal was lodged against the refusal of 23/02633/OUT. The appeal was allowed, under appeal reference APP/L3245/W/23/3329859, dated 5th March 2024. A copy of the appeal decision is attached as **Appendix A** to this report.

- 4.1.1 **SUDS** – Is Minor Development and site is not located within SuDS Consultation Area. LLFA will only provide standing advice on development proposals to LPA as Informative Notes below:

Development is unlikely to significantly increase flood risk. Therefore offer following informative:

Informative Notes: Sustainable scheme for disposal of surface water from development should be designed and constructed in accordance with Council's SuDS Handbook.

- 4.1.2 **SC Ecology** – Have read submitted Great Crested Newt Assessment. Happy with level of survey work. Recommend following conditions and informatives are included on decision notice:

Conditions:

- Working in accordance with method statement
- Bat and bird boxes
- Lighting plan

Informatives:

- Nesting birds
- General wildlife protection

- 4.1.3 **SC Affordable Housing** – If development is policy compliant then whilst Council considers there is acute need for affordable housing in Shropshire, Councils housing needs evidence base and related policy pre dates judgment of Court of Appeal and subsequent changes to NPPG, meaning that on balance and at this moment in time, national policy prevails and no affordable housing contribution would be required in this instance.

- 4.1.4 **SC Environmental Protection** – In principle have no objection to application. However, should scheme be approved and full application be submitted, would recommend consideration is given to busy industrial estate entrance. Applicant should provide noise assessment to mitigate any loss of amenity or design out any issues created by vehicle movements into industrial estate.

4.2 Public Comments

- 4.2.1 **Stoke Upon Tern Parish Council - Object.** The Parish Council wishes to maintain its objection to development on this site and does not consider that the changes to the Application are sufficient to change that view. To reiterate, in accordance with the adopted Neighbourhood Plan (which the Applicant does not even mention) this site should be considered to be within Open Countryside and should not be developed. The recent Appeal decision on a nearby site should not be considered a precedent and the Council has mounting concerns that "single infill developments" will erode the character of the area that the

Neighbourhood Plan has sought to protect. Creeping linear development along Rosehill Road needs to be resisted.

4.2.2 **Public representations** – One representation of objection has been received. The main points of objection raised include:

Concerns/objections raised in original application 23/02669/OUT remain same.

Objections raised in relation to 23/02669/OUT include:

Proposed new development is located next to licensed boarding kennel, namely Hound Hall. Hound Hall has license from Shropshire Council since 2014 and is permitted to care for 14 dogs. Are also 4 permanent resident dogs. Prior to planning permission for kennels being granted in 2014 consideration was given to issue of noise pollution. Noise was not issue as nearest residential property was located 85 metres away. Proposed new development is situated immediately adjacent to dogs main exercise area and isolation unit and only few metres from main kennel block.

Dogs have access to all outside areas from 6am to 10pm. Currently, are few external factors that disturb dogs and cause them to bark. When excess barking does occur dogs are temporarily returned to their rooms to reduce amount of noise they make. Obviously, this would not be feasible solution to noise reduction with permanent residential dwellings being located so close.

When dogs struggle to settle, will often bark and howl throughout night. Currently, this only affects occupiers of Rose Cottage. However, this would likely be detrimental to occupiers of proposed new developments.

To date been no complaints regarding noise pollution relating to boarding kennels.

In addition, would like to raise following points:

Note comments made by PPO in original application - "Considering there are only 4 Kennels and that the PPO believes that only dogs from the same household are allowed to share kennels, the PPO is of the opinion that it is very unlikely there will ever be anywhere near 14 dogs at the kennels".

To explain, rooms at Hound Hall are large enough to accommodate four giant breeds from same family. Although licenced for fourteen dogs, actually have capacity for sixteen. Over past couple of years have seen increase in number of owners with more than three dogs. All are returning customers, due size of our rooms and calm, quiet and stress free environment. Unlike traditional boarding kennels with constant barking, meaning stressful environment for humans and animals.

PPO further comments "that there is good screening in the form of a hedge around the kennels and the proposed dwelling is on the opposite side of the house associated with the kennels, so coming and going from the proposed

dwelling is unlikely to disturb the dogs."

Is hedge that provides degree of screening. However, dogs do not need to see someone to trigger natural instinct of alert barking. Disagree that comings/goings from proposed dwelling, which is adjacent to and not opposite main house, is unlikely to disturb dogs. This is clearly evident when people enter field to attend to horse/ undertake work in field or are simply walking past.

Have made no objection to new houses being built other side of Rose Cottage as believe these will be far enough away from Hound Hall to not cause any significant increase in noise or unnecessary stress to dogs we care for.

5.0 THE MAIN ISSUES

- Policy and principle of development
- Residential amenity
- Ecology
- Highways and drainage

6.0 OFFICER APPRAISAL

6.1 Policy and principle of development

6.1.1 The Parish Council objected to the previous application, reference 23/02669/OUT, on the grounds that the development was contrary to the adopted Neighbourhood Plan and located on agricultural land. It was not considered clear from that objection whether the Parish Council considered the site to be within the settlement of Stoke Heath or 'countryside' - although on the matter of suitability the objection was interpreted that the Parish Council considered the site to be an unsuitable site.

6.1.2 In relation to this current application the Parish Council again object and for the reasons set out in section 4.2.1 above. The Parish Council are of the view that '*... in accordance with the adopted Neighbourhood Plan ... this site should be considered to be within Open Countryside and should not be developed ...*' The Parish Council add that '*... The recent Appeal decision on a nearby site should not be considered a precedent and the Council has mounting concerns that "single infill developments" will erode the character of the area that the Neighbourhood Plan has sought to protect. Creeping linear development along Rosehill Road needs to be resisted.*'

6.1.3 Stoke Heath is covered by a Neighbourhood Plan, adopted in July 2021. The Neighbourhood Plan was found to be in general conformity with the strategic policies of the adopted Development Plan for Shropshire, which includes the Shropshire Core Strategy (adopted 2011) and the SAMDev Plan (adopted 2015).

6.1.4 The strategic policies of the adopted Development Plan identify the role of

Community Hubs in achieving the spatial strategy for Shropshire. One such Community Hub is Stoke Heath. Under the adopted Development Plan Stoke Heath is defined as being a community hub under settlement policy S11.2(vi) where there is provision for a limited number of dwellings approximately 20-25 houses over the plan period to 2026, which will be through one allocated housing site off Dutton Close together with appropriate windfall development through limited infilling, groups of houses and conversions which may be acceptable on suitable sites within Stoke Heath.

- 6.1.5 However, the settlement of Stoke Heath does not have a development boundary. Therefore, it is a matter of planning judgement as to whether development proposals are or are not located within Stoke Heath. Those locations that are not considered to be located within Stoke Heath are located within the countryside for policy purposes (as within the adopted Development Plan the remainder of the Stoke Upon Tern parish constitutes countryside).
- 6.1.6 The explanatory text within the Neighbourhood Plan on Local Housing Need acknowledges that the SAMDev Plan runs to 2026 whilst the plan period for the Neighbourhood Plan extends to 2033. It explains that the smaller hamlets within the Neighbourhood Plan area (which covers the entirety of the Stoke Upon Tern Parish and not just Stoke Heath) are considered countryside for policy purposes. It does not suggest that Stoke Heath is currently no longer a Community Hub.
- 6.1.7 The policy on housing within the Stoke Upon Tern Neighbourhood Plan equally complements/expands on wider relevant policies in the adopted Development Plan. The policy in no way addresses the issue of the extent of the Community Hub.
- 6.1.8 Therefore, to reiterate it is a matter of planning judgement as to whether a development proposal is or is not located within Stoke Heath.
- 6.1.9 As evident in section 1.2 above the reason for refusing the previous application reference 23/02669/OUT was not that the site conflicted with policy concerned with housing strategy in terms of location, but rather that the housing guideline for the settlement had already been met and exceeded.
- 6.1.10 The site address is Stoke Heath and officers view remains that as expressed in relation to the previous application reference 23/02669/OUT, ie in that the site location is construed as infilling within the settlement of Stoke Heath and therefore satisfies adopted policy in this regard.
- 6.1.11 To add to the foregoing this application site is along the same road and just 75 m north of the site recently allowed on appeal in outline for one dwelling (reference APP/L3245/W/23/3329859). Whilst officers agree with the Parish Council that the appeal decision does not set a precedent, the decision is none the less a material planning consideration. Within the appeal decision the Inspector referred to the appeal site as siting within the Community Hub of Stoke Heath and found the site to align with the locational strategy for residential development

as set out within the development plan. It is considered by officers that the same reasoning would apply to this current application site.

- 6.1.12 Bearing in mind all the above, then officers consider that to refuse this current application on locational grounds would be difficult to sustain on appeal.
- 6.1.13 Returning to the exceedance of the housing guideline for the settlement then also in view of the appeal decision officers do not consider that a repeat refusal of this new application for one additional dwelling could be robustly defended on these grounds. It is highlighted that in the appeal case the Inspector accepted that the housing guideline had already been breached and that the appeal would add a further breach by one dwelling. However, the Inspector added that the breach would '*only*' be '*a very modest additional breach of one dwelling*', would accord with the Government's aim to increase the supply of housing and would also provide modest social and economic benefits. Further, although noting the Council's concern regarding the overstretching of local services, the Inspector commented that there was no substantive evidence of this and considered it '*very unlikely one dwelling would unacceptably affect any services or facilities within the Community Hub. This is especially so given that 69 dwellings have already been approved.*' Hence the Inspector deemed the proposal complied with the additional considerations set out in SAMDev Plan policy MD3 in relation to settlement housing guidelines. Officers consider that these same points would be raised in relation to this current application case. Officers are not therefore convinced another refusal would therefore be reasonably defensible in relation to the exceedance of the housing guideline by one further dwelling and the lack of any substantive evidence regarding the overstretching the local services to demonstrate otherwise.

Local Plan review

- 6.1.14 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.
- 6.1.15 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, under the emerging local plan the community hub status of Stoke Heath is changing. Stoke Heath will lose its community hub status and will become countryside. The allocated housing site at Dutton Close within Stoke Heath will be saved but all other land at Stoke Heath will become 'countryside' for planning policy purposes, where new development is strictly controlled in accordance with draft policy SP10, other relevant policies within the draft plan and national policies. The weight will increase as the Plan progresses.

6.2 Residential amenity

Noise

- 6.2.1 The application has been consulted upon with the Council's Public Protection Officer (PPO) who has raised no objection in principle to the application. However, in relation to potential noise in so far as it may impact upon residential amenity, the PPO advises that consideration will need to be given to the busy industrial estate entrance opposite in relation to any future detailed or full application, where the applicant should provide a noise assessment to mitigate any loss of amenity, or design out any issues created by vehicle movements into/out of the industrial estate. The requirement for a noise impact assessment can therefore be imposed by condition on any outline planning consent issued to secure a noise impact assessment and any associated mitigation measures.
- 6.2.2 Notwithstanding the above, a public objection has been submitted, concerned with the proximity of the site to the Hound Hotel, a dog boarding kennel facility that sits adjacent to the site to the south, and any implications this may have for the residential amenities of any future occupants of the proposed dwelling and for the kennel facility.
- 6.2.3 In making the objection, the objector refers back to comments made in relation to this issue within the officer report for the previous application reference 23/02669/OUT. In that case the following was reported:
- 6.2.4 'Noise
- 6.2.1 The application has been consulted upon with the Council's Public Protection Officer who has raised no objection on residential amenity grounds in relation to potential noise.*
- 6.2.2 In arriving at this view the Public Protection Officer has confirmed to Officers that the presence of the neighbouring kennels was taken into account. Planning permission was granted for the neighbouring kennels in 2014. The permission was for 4 Kennels which were all insulated and there was no external exercise space marked on the approved plans. Hence, no significant impact was considered likely.*
- 6.2.3 Considering there are only 4 Kennels and that the PPO believes that only dogs from the same household are allowed to share kennels, the PPO is of the opinion that it is very unlikely there will ever be anywhere near 14 dogs at the kennels (the number raised by an objector in respect of the concurrent application reference 23/02669/OUT), unless the number of boarding kennels have been increased, which would require planning consent. No planning permission to increase the number of boarding kennels has been granted, or to change the use of the adjoining land to a dog exercise area.*
- 6.2.4 Further, the PPO comments that there is good screening in the form of a hedge around the kennels and * the proposed dwelling is on the opposite side of the house associated with the kennels, so coming and going from the proposed dwelling is unlikely to disturb the dogs.*

6.2.5 The PPO goes on to add that there is of course potential for the kennels to cause a noise problem if not appropriately managed or if the scale and nature of the kennels has changed. In respect of the former, the PPO has powers under other legislation to investigate and deal with complaints of noise nuisance. This power would also apply to any concerns regarding unreasonable noise during the construction period. In respect of the later, to reiterate no planning permission has been granted to increase the number of boarding kennels or to change the use of the adjoining land to a dog exercise area. In the event that the nature of the kennels has significantly and lawfully changed to have a greater impact then a noise assessment could be required. At this point in time officers have no evidence to demonstrate that any significant change is lawful from a planning perspective.'

* NB: The words 'drive of' were omitted here which when added lends clarification to this point.

6.2.5 The additional points now raised by the objector are summarised in section 4.2.2 above. These objection comments have further been consulted upon with the PPO. In response the PPO advises that he disagrees with neighbours comments and believes that the new build should not have a significantly adverse effect on the dog kennel boarding business. Hound Hall is a small boutique kennel with an enclosed outdoor space for exercise and where it is understood that the dogs have to be taken off site for longer exercise. Further, the new development indicates an access area for the field in between the site and Hound Hall and the surrounding area has a busy road junction into the Rosehill Industrial Estate which clearly does not pose a concern to the kennel business. Therefore, the PPO considers that the addition of several car movements in and off the drive along with household noise associated with one dwelling should not be significant and that a fence to the height of approximately 2 m could be provided along the south boundary to improve the situation if required.

6.2.6 Whilst the compatibility of the neighbouring land uses has therefore been questioned in relation to noise this issue is not considered so significant as to warrant refusal of the application. It is considered that a noise impact assessment can be secured by condition to demonstrate how acceptable amenity standards will be achieved within the design of a detailed scheme and to include for appropriate mitigation measures if required.

6.3 **Ecology**

6.3.1 The application is accompanied by a Great Crested Newt Assessment and has been subject to consultation with the Council's Ecologist. The Council's Ecologist has confirmed a position of no objection and recommends the imposition of planning conditions of approval and informatives in the event outline planning permission is to be granted. With the recommended planning conditions and informatives in place the application is considered capable of satisfying adopted development plan policies and the NPPF in relation to ecological matters as

relevant.

6.3.2 As regards Biodiversity Net Gain (BNG), the application is for a self-build dwelling. Self-builds are listed as an exemption.

6.4 Highways and drainage

Highways

6.4.1 The application is made in outline with all matters reserved. No access details are therefore provided for assessment at this stage. In the event that outline planning permission was granted then any future reserved matters application would need to provide any and all details necessary to assist with the appropriate determination from a Highways and Transport perspective as well as demonstrate that any proposed new vehicular access, associated visibility splays, parking and turning facilities would be commensurate with the prevailing local highway conditions and meet with prevailing highway standards.

Drainage

6.4.2 The Council's Drainage Team have been consulted on the application and raise no objection on drainage grounds, simply recommended a standard informative in relation to surface water disposal. In the circumstances and bearing in mind the need for any development to comply with Building Regulations in respect of drainage the proposal is considered capable of compliance with adopted development plan policy CS18 and the NPPF in drainage terms.

7.0 CONCLUSION

7.1 The application seeks outline consent with all matters reserved for later approval and the development is considered to accord with the adopted planning policies and housing strategy for the area in principle. The recommendation is therefore one of approval, subject to the conditions as set out in Appendix 1 below.

7.2 In considering the application due regard has been given to the following planning policies as relevant: Shropshire Core Strategy CS1, CS4, CS5, CS6, CS9, CS11, CS17 and CS18; Site Allocations and Management of Development (SAMDev) Plan policies MD1; MD2, MD3, MD7A, MD12 and S11; the Council's SPD on the Type and Affordability of Housing, the Stoke on Tern Neighbourhood Development Plan and the National Planning Policy Framework.

8.0 Risk Assessment and Opportunities Appraisal

8.1 Risk Management

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

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

APPENDIX A

Appeal Decision

Site visit made on 5 March 2024

by Samuel Watson BA (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 9 April 2024

Appeal Ref: APP/L3245/W/23/3329859

Honeyspot Farm, Rosehill Road, Stoke Heath, Shropshire TF9 2JU

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant outline planning permission.
 - The appeal is made by Mrs Margaret McNulty against the decision of Shropshire Council.
 - The application Ref is 23/02633/OUT.
 - The development proposed is the erection of single dwelling and detached garage.
-

Decision

1. The appeal is allowed and outline planning permission is granted for the erection of single dwelling and detached garage at Honeyspot Farm, Rosehill Road, Stoke Heath, Shropshire TF9 2JU in accordance with the terms of the application, Ref 23/02633/OUT, subject to the conditions in the attached schedule.

Preliminary Matters

2. The proposal before me has been made in outline with all matters, namely access, appearance, landscaping, layout and scale, reserved for a subsequent application. I understand from the appellant's case that the submitted drawings, in these respects, are for illustrative purposes only, I have considered them as such.

Main Issue

3. The main issue is whether the location of the appeal site is suitable for new residential development.

Reasons

4. Policy CS1 of the Shropshire Local Development Framework: Adopted Core Strategy (March 2011, the ACS) and Policy MD1 of the Shropshire Council Site

Allocations and Management of Development Plan (December 2015, the SAMD) set out the Council's spatial strategy and hierarchy for residential development. This strategy states that development will be directed, in part, to Community Hubs such as the one the appeal site sits within; Stoke Heath. SAMD Policy S11.2(vi) states that Stoke Heath will support approximately 20-25 new dwellings over the plan period and SAMD Policy MD3 continues that if the development guideline numbers are exceeded additional considerations must be had.

5. I understand from the submissions before me that 69 houses have been granted approval and have either been, or are likely to be, delivered. It is clear, therefore, that the development would lead to this number further exceeding the guideline. I am mindful that this guideline is not a maximum and that it has already been significantly breached through previous developments.

6. The proposal would result in only a very modest additional breach of one dwelling. This would provide additional housing in accordance with the Government's aim to significantly increase the supply of housing, and would also provide modest social and economic benefits through the increased number of residents. Although I note the Council's concerns regarding the overstressing of local services, I have not been provided with any substantive evidence of this and consider that it is very unlikely one dwelling would unacceptably affect any services or facilities within the Community Hub. This is especially so given that 69 dwellings have already been approved. In light of the above the proposal complies with the additional considerations set out in SAMD Policy MD3 for Settlement Housing Guidelines.

7. Although the Council have referred to concerns over the goodwill of the community, it has not been demonstrated where this has been identified or how this relates to the policies of the development plan. I also note the local plan review, but I understand that it is in very early stages. As I cannot be certain that the plan would be implemented in the suggested form it has not been determinative in my considerations.

8. I recognise that the Council can demonstrate a five-year housing land supply. However, much like the Council's own housing numbers for Stoke Heath, this is not a cap. Consequently, and as I have found the proposal would comply with the development plan, the five-year housing land supply does not preclude me from finding the proposal to be acceptable.

9. In light of the above, the proposal would result in development that aligns with the locational strategy for residential development as set out within the development plan. As such, the proposal would comply with ACS Policies CS1 and CS4, and SAMD Policies MD1, MD3 and S11.2(vi). Amongst other matters, these policies set out the spatial strategy and hierarchy for residential development, including at Community Hubs.

Other Matters

10. The proposal would result in the modest loss of some undeveloped land at the edge of a larger field. From my observations on site, and the information before me, the area of land covered by the appeal site is not of any especial ecological importance. The proposal would reduce the contribution the site makes to the wider environment and habitats, but this could be mitigated through the planting typically associated with residential properties and the provision of additional habitat boxes. I recognise the potential for the site to provide a habitat for great crested newts, but I am content that any risk can be dealt with through a suitably worded condition.

11. Concerns have been raised that Rosehill Road is at risk of flooding and that the junction between the appeal site and the road can flood to a significant depth. However, I have not been provided with any demonstrable evidence to substantiate this. Nevertheless, given the proposal would likely reduce the area of permeable surface at the site, a condition would be necessary to ensure any impact on flood risk would be minimised.

12. I note reference to a dog kennels near the appeal site, although its location is unclear, and I recognise that these can result in disruptive noise levels which could be detrimental to the living conditions of neighbouring occupiers. No evidence of any existing conflicts with the kennels have been provided. Given its siting close to existing dwellings, I find it unlikely that the proposed dwelling would be at any greater risk of adverse noise impacts than those existing nearby dwellings.

13. I do not find that the siting of a new dwelling at the appeal site would necessarily affect the living conditions of neighbouring occupiers with regard to loss of light or privacy, or through the creation of noise and light pollution. As this appeal is only at outline stage with all matters reserved it is not within the remit of this appeal to consider the effects of the detailed design which would be considered at the reserved matters stage. Similarly, the detailed design of the proposed access, parking and turning would be provided at the reserved matters stage.

14. The proposal will likely result in an increase in vehicular movements to and from the appeal site. These would include private motor vehicles. However, given its small scale, and relative to the existing number of dwellings in the area and those recently permitted, the proposal would not result in a significant or unacceptable increase in traffic or pollution levels.

Conditions

15. I have had regard to the conditions suggested by the Council and the advice on planning conditions set out by the Framework and the Planning Practice Guidance. In the interests of clarity and enforceability, I have made some changes to the wording.

16. For certainty, I have set out the reserved matters as well as the timescale for their submission and the commencement of works. A condition is also necessary, for certainty and enforceability, requiring that the development is carried out in accordance with the approved plans.

17. As noted above flood risk at the site could increase given the likely reduction of permeable surface at the site as a result of the provision of a new dwelling. I therefore find it necessary to impose a condition requiring details of surface and foul water drainage to ensure any increase in risk is mitigated. Securing bat and bird boxes through a condition would also be necessary to mitigate the loss of the undeveloped green space and achieve habitat benefits. Similarly, it is necessary to restrict external lighting in order to minimise any disturbances to wildlife and their habitats.

18. Although, from the submissions before me, Great Crested Newts are unlikely to use the site or be directly affected by the development, there is still some residual risk. The method statement set out in the Eco Tech report would not be overly onerous on balance with the potential risk identified. A condition is therefore necessary requiring any works are carried out in accordance with this report.

Conclusion

19. There are no material considerations that indicate the appeal should be determined other than in accordance with the development plan. For the reasons given above, I therefore conclude that the appeal should be allowed.

Samuel Watson
INSPECTOR

SCHEDULE OF CONDITIONS

- 1) Details of the access, appearance, landscaping, layout, and scale, (hereinafter called "the reserved matters") shall be submitted to and approved in writing by the local planning authority before any development takes place and the development shall be carried out as approved.
- 2) Application for approval of the reserved matters shall be made to the local planning authority not later than 3 years from the date of this permission.
- 3) The development hereby permitted shall take place not later than 2 years from the date of approval of the last of the reserved matters to be approved.
- 4) The development hereby permitted shall be carried out in accordance

with the following approved plan: Location Plan 433-230p.

5) 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 first occupied.

6) No development shall commence until details of the provision of bat and bird boxes have first been submitted to and approved in writing by the Local Planning Authority. This shall, as a minimum, include 2 bat boxes and 4 bird nests or bricks. They shall be sited in suitable locations, with a clear flight path and where they will be unaffected by artificial lighting. They shall thereafter be maintained for the lifetime of the development.

7) 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.

8) No development shall be carried out on site except where it is in accordance with the mitigation and enhancement measures for great crested newts set out in 'Appendix 1 - Method Statement' of the Great Crested Assessment by Eco Tech, dated July 2023.

10. Background

Relevant Planning Policies

Core Strategy and SAMDev Plan Policies:

CS1 - Strategic Approach

CS4 - Community Hubs and Community Clusters

CS5 - Countryside and Greenbelt

CS6 - Sustainable Design and Development Principles

CS9 - Infrastructure Contributions

CS11 - Type and Affordability of housing

CS17 - Environmental Networks

CS18 - Sustainable Water Management

MD1 - Scale and Distribution of Development

MD2 - Sustainable Design

MD3 - Managing Housing Development

MD7A - Managing Housing Development in the Countryside

MD12 - Natural Environment

Settlement: S11 - Market Drayton
 SPD Type and Affordability of Housing
 NPST - Stoke on Tern Neighbourhood Development Plan

National Planning Policy Framework

RELEVANT PLANNING HISTORY:

23/02669/OUT Outline application for the erection of 2No dwellings, associated garages and amenity land (all matters reserved) REFUSE 11th August 2023

23/02633/OUT Outline application for the erection of single dwelling and detached garage (all matters reserved) REFUSE 11th August 2023

24/02761/REM Approval of reserved matters (access, appearance, landscaping, layout and scale) pursuant to 23/02633/OUT (allowed on appeal APP/L3245/W/23/3329859) PCO

Appeal

23/03212/REF Outline application for the erection of single dwelling and detached garage (all matters reserved) ALLOW 9th April 2024

11. Additional Information

View details online: <http://pa.shropshire.gov.uk/online-applications/applicationDetails.do?activeTab=summary&keyVal=SGBGXOTDIX500>

List of Background Papers (This MUST be completed for all reports, but does not include items containing exempt or confidential information)
Cabinet Member (Portfolio Holder) - Councillor Chris Schofield
Local Member Cllr Paul Gill
Appendices APPENDIX 1 - Conditions

APPENDIX 1**Conditions****STANDARD CONDITION(S)**

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

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

2. Application for approval of the reserved matters shall be made to the local planning authority before the expiration of three years from the date of this permission.

Reason: This condition is required to be imposed by Section 92 of the Town and Country Planning Act, 1990.

3. The development hereby permitted shall be begun before the expiration of two years from the date of approval of the last of the reserved matters to be approved.

Reason: This condition is required to be imposed by Section 92 of the Town and Country Planning Act, 1990.

4. The following information shall be submitted to the Local Planning Authority concurrently with the first submission of reserved matters:

- A noise impact assessment, to include mitigation measures to design out, attenuate or mitigate any potential noise issues

Reason: To enable the Local Planning Authority to consider fully the details of the development, to ensure the development is of an appropriate standard and to minimise and protect the amenities of future occupiers from potential noise nuisance.

5. 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.

6. All site clearance and development shall occur strictly in accordance with Appendix 1 of the Great Crested Newt Assessment (EcoTech, June 2024).

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

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

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

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

-A minimum of 2 artificial nests, of either integrated brick design or external box design, suitable for starlings (42mm hole, starling specific) and/or sparrows (32mm hole, terrace design).

The boxes shall be sited at an appropriate height above the ground, with a clear flight path and where they will be unaffected by artificial lighting. Bat boxes should be erected on southerly aspects (south-west, south or south-east) and bird boxes should be erected on northerly or shaded east/west aspects.

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

Reason: To ensure the provision of roosting and nesting opportunities, in accordance with adopted development plan policies MD12 and CS17 and section 180 of the National Planning Policy Framework.

8. Prior to the erection of any external lighting on the site, a lighting plan shall be submitted to and approved in writing by the Local Planning Authority. The lighting plan shall demonstrate that the proposed lighting will not impact upon ecological networks and/or sensitive features, e.g. bat and bird boxes (required under a separate planning condition). The submitted scheme shall be designed to take into account the advice on lighting set out in the Bat Conservation Trust's Guidance Note GN08/23: Bats and Artificial Lighting At Night, GN01/21: The Reduction of Obtrusive Light and Guidance Note 9/19: Domestic exterior lighting: getting it right.

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

Informatives

1. Where there are pre commencement conditions and/or conditions that require the submission of information for approval prior to development commencing then at least 28 days notice is required to enable proper consideration to be given.

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 £145 per request, and £43 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. THIS PERMISSION DOES NOT CONVEY A BUILDING REGULATIONS APPROVAL under the Building Regulations 2010. The works may also require Building Regulations approval. If you have not already done so, you should contact the Council's Building Control Section on 01743 252430 or 01743 252440.

4. General site informative for wildlife protection

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

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

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

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

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

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

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

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

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

5. Drainage informative:

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

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

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

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

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

6. Nesting birds informative

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

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

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

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

7. You are obliged to contact the Street Naming and Numbering Team with a view to securing a satisfactory system of naming and numbering for the unit(s) hereby approved. At the earliest possible opportunity you are requested to submit two suggested street names and a layout plan, to a scale of 1:500, showing the proposed street names and location of street nameplates when required by Shropshire Council. Only this authority is empowered to give a name and number to streets and properties, and it is in your interest to make an application at the earliest possible opportunity. If you would like any further advice, please contact the Street Naming and Numbering Team at Shirehall, Abbey Foregate, Shrewsbury, SY2 6ND, or email: snn@shropshire.gov.uk. Further information can be found on the Council's website at: <http://new.shropshire.gov.uk/planning/property-and-land/name-a-new-street-or-development/>, including a link to the Council's Street Naming and Numbering Policy document that contains information regarding the necessary procedures to be undertaken and what types of names and numbers are considered acceptable to the authority.

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Northern Planning Committee

September 17th 2024

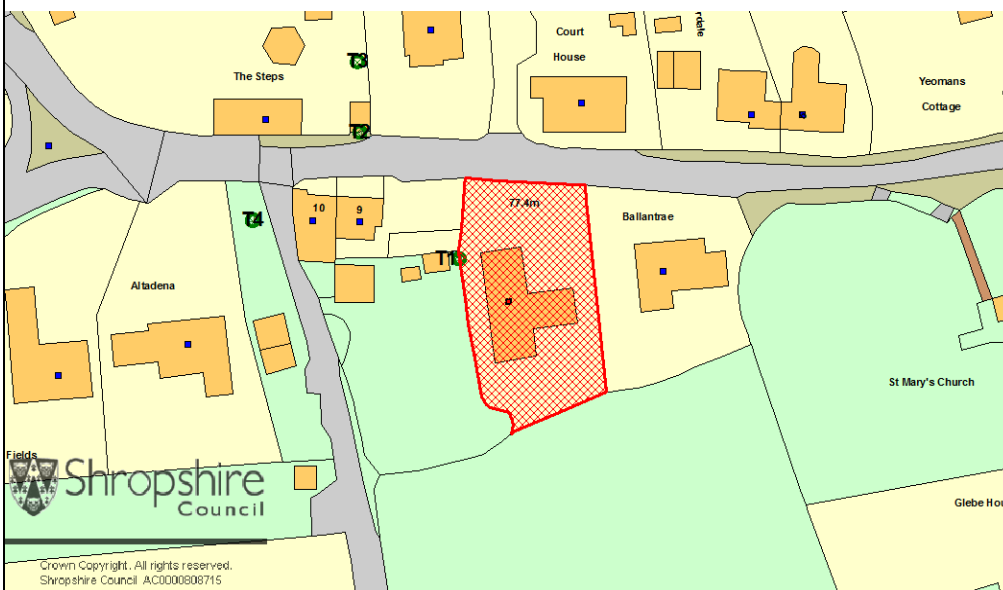
Development Management Report

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

Summary of Application

Application Number: 24/02715/AMP	Parish:	Montford
Proposal: Non Material Amendment for the removal of the existing chimney to planning permission 23/03587/FUL Erection of flat roof two-storey front extension to create a new entrance and interior remodelling of existing dwelling		
Site Address: 9A Shrawardine Shrewsbury Shropshire SY4 1AH		
Applicant: Mr Ed Potter		
Case Officer: Sara Robinson	email: sara.robinson@shropshire.gov.uk	

Grid Ref: 339858 - 315277



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

REPORT

1.0 THE PROPOSAL

- 1.1 This application is for a non-material amendment to planning application 23/03587/FUL for the following alterations:
- Removal of the existing chimney

2.0 SITE LOCATION/DESCRIPTION

- 2.1 The land to which this application relates is located within the named settlement of Shrawardine, however is identified as open countryside within the SAMDev.
- 2.2 The site is bound by the highway to the north with residential dwellings beyond, to the east and west are residential dwellings, whilst to the south is agricultural land.

3.0 REASON FOR COMMITTEE DETERMINATION OF APPLICATION

- 3.1 The applicant is Councillor Edward Potter, therefore the application requires committee determination in accordance with the Council's constitution.

4.0 OFFICER APPRAISAL

- 4.1 Planning permission was granted on the 22nd of November 2023 for the erection of flat roof two-storey front extension to create a new entrance and interior remodelling of the existing dwelling.
- 4.2 The application seeks to alter the plans by removing the existing chimney breast. It is considered that the proposed alteration will not materially alter the dwelling.
- 4.3 The proposal is therefore considered to be non-material in this instance.

5.0 CONCLUSION

- 5.1 The proposed amendment falls within the scope of a non-material amendment procedure and will not result in a development that is materially different to the previously approved scheme. This non-material amendment application is therefore recommended for approval subject to the conditions as outlined in

appendix one attached to this report.

In all other respects the development must be carried out in accordance with the terms and conditions of the original planning permission.

6.0 RISK ASSESSMENT AND OPPORTUNITIES APPRAISAL

6.1 Risk Management

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

- 3φAs 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.
- 3φThe 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.

6.2 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.

6.3 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.

7.0 FINANCIAL IMPLICATIONS

7.1 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. Background

Relevant Planning Policies

Central Government Guidance:

West Midlands Regional Spatial Strategy Policies:

Core Strategy and Saved Policies:

RELEVANT PLANNING HISTORY:

23/03587/FUL Erection of flat roof two-storey front extension to create a new entrance and interior remodelling of existing dwelling GRANT 22nd November 2023

24/02715/AMP Non Material Amedment for the removal of the existing chimney to planning permission 23/03587/FUL Erection of flat roof two-storey front extension to create a new entrance and interior remodelling of existing dwelling PCO

24/03004/TPO Reduce southern limbs by 1.5m -3m to provide a 1.5m clearance from the roof line & crown raise the lower limbs overhanging garage by 1.5m of 1no Yew protected by the Shrewsbury and Atcham Borough Council (Shrawardine) Tree Preservation Order 1989 (Ref: SA/187) PCO

11. Additional Information

View details online: <http://pa.shropshire.gov.uk/online-applications/applicationDetails.do?activeTab=summary&keyVal=SGOFD5TDJ2L00>

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

Cabinet Member (Portfolio Holder) - Councillor Chris Schofield

Local Member

Cllr Ed Potter

Appendices

APPENDIX 1 - Conditions

APPENDIX 1

Conditions

STANDARD CONDITION(S)

The development shall be carried out strictly in accordance with the approved plans, drawings and documents as listed in Schedule 1 below.

In all other respects the development must be carried out in accordance with the terms and conditions of the original planning permission.

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

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Committee and Date
 Northern Planning Committee
 17th September 2024

SCHEDULE OF APPEALS AS AT COMMITTEE 17th SEPTEMBER 2024

LPA reference	23/05422/FUL
Appeal against	Refusal
Committee or Del. Decision	Delegated
Appellant	Mr And Mrs Wootton
Proposal	Erection of a 1-bedroom bungalow
Location	Land Adjacent 11 White Lodge Park Shawbury
Date of appeal	28.06.2024
Appeal method	Written Representations
Date site visit	
Date of appeal decision	
Costs awarded	
Appeal decision	

LPA reference	24/00747/FUL
Appeal against	Refusal
Committee or Del. Decision	Delegated
Appellant	Mr And Mrs Lansdale
Proposal	Two storey rear extension
Location	Fernleigh High Street Clive Shrewsbury
Date of appeal	09.07.2024
Appeal method	Fast Track
Date site visit	
Date of appeal decision	
Costs awarded	
Appeal decision	

LPA reference	24/01704/FUL
Appeal against	Appeal Against Refusal
Committee or Del. Decision	Delegated Decision
Appellant	Mr Ian Putnam
Proposal	Replacement front windows (Article 4 Direction).
Location	12A Primrose Terrace St Michaels Street Shrewsbury
Date of appeal	19.07.2024
Appeal method	Householder
Date site visit	
Date of appeal decision	
Costs awarded	
Appeal decision	

LPA reference	23/04807/OUT
Appeal against	Refusal
Committee or Del. Decision	Delegated
Appellant	Mr Pritchard
Proposal	Outline application for the erection of 6no. dwellings (1 affordable) to include access and layout
Location	Land South Elson Cottage Elson Road Ellesmere
Date of appeal	03.09.2024
Appeal method	Written Representations
Date site visit	
Date of appeal decision	
Costs awarded	
Appeal decision	

APPEALS DETERMINED

LPA reference	23/04127/OUT
Appeal against	Refusal
Committee or Del. Decision	Delegated
Appellant	Mr Victor Simpson
Proposal	Outline planning application (access landscaping and layout) for the construction of three 3 bed bungalows plus a Self-Build plot
Location	Clubhouse Farm Church Street Hinstock
Date of appeal	03.05.2024
Appeal method	Written Representations
Date site visit	
Date of appeal decision	20.08.2024
Costs awarded	
Appeal decision	DISMISSED

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Appeal Decision

Site visit made on 31 July 2024

by Stephen Normington BSc DipTP MRICS MRTPI FIQ FIHE

an Inspector appointed by the Secretary of State

Decision date: 20 August 2024

Appeal Ref: APP/L3245/W/23/3334841

Clubhouse Farm, Church Street, Hinstock TF9 2TF

- 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 Victor Simpson (Goulden Simpson Limited) against the decision of Shropshire Council.
 - The application Ref 23/04127/OUT, dated 19 September 2023, was refused by notice dated 21 November 2023.
 - The development proposed is an outline planning application (access, landscaping and layout) for the construction of three 3 bed bungalows plus a Self-Build Plot.
-

Decision

1. The appeal is dismissed.

Procedural Matters

2. The application was made in outline with all matters reserved for future consideration except for access, landscaping and layout. I have determined the appeal on this basis and have treated any plans showing details of reserved matters of appearance and scale as illustrative.
3. The appeal application follows a recently refused proposal (Ref 22/01679/OUT) at the site for seven open market dwellings. This proposal was subsequently dismissed at appeal (Ref APP/L3245/W/23/3314030). Both main parties have referred to the previous application and appeal in the evidence provided to support their respective case. Where relevant, I have taken into account the previous application and appeal decision in my determination of the appeal before me and as set out below.
4. On 30 July 2024 the Government published a consultation on proposed reforms to the National Planning Policy Framework (NPPF) and other changes to the planning system. The proposed reforms are draft and therefore may be subject to change before the final document is published. The consultation closes on 24 September 2024. Also on 30 July 2023, the Secretary of State made a written ministerial statement (WMS) entitled "Building the homes we need". The WMS is an expression of Government policy and is, therefore, capable of being a 'material consideration' in appeal casework.
5. Although, the consultation and draft NPPF do not constitute Government policy or guidance, they are capable of being material considerations. The main parties were invited to provide comments in relation to the above documents prior to my determination of this appeal. Although no response was provided

by the Council, the Appellant provided comments on 5 August 2024. Where relevant, I have taken into account the views of the Appellant and the WMS in my determination of this appeal.

Main Issues

6. The main issues are:

- The effect of the proposed development on the character and appearance of the surrounding area.
- Whether the proposed development would be appropriately located, taking into account the Council's spatial strategy for housing development with particular regard to the location of part of the site in the open countryside.
- The effect of the proposed development on existing trees to the west of the appeal site.
- Whether the proposal would make adequate provision for affordable housing.
- The effect of the proposed development on protected species.

Reasons

Character and appearance

7. The appeal site comprises land to the western side garden and rear of Clubhouse Farm with the latter area comprising predominantly overgrown forming grazing/garden area. Clubhouse Farm comprises a two storey former farmhouse accessed off Church Street.
8. There is no predominant pattern, style or construction ages of development along Church Street with the majority of the properties fronting to the southern side of the road comprising of relatively closely spaced dwellings, having relatively large open rear gardens. Property boundaries with the southern side of Church Street comprise predominantly stone boundary walls with access gaps. The road appears to be lightly trafficked which contributes to a relatively tranquil environment. Overall, the diverse nature of development in the vicinity of the appeal site makes a significant contribution to the character of the area which displays little uniformity in the settlement pattern.
9. Open countryside lies to the rear of the appeal site and the properties on the southern side of the street. There is an intervening area of woodland and ponds comprising the 'Old Church farm Pond Nature Reserve' with open countryside beyond. There are some examples of single dwelling backland development having been constructed to the rear of some properties on the southern side of Church Street, comprising Churchwood House and 7A Church Street. These properties have been built within spacious grounds and are visible from the road.
10. The proposed development would involve the construction of three detached bungalows, together with a self-build plot positioned to the rear of Churchouse Farm and Nos. 3-5 Church Street. The site would be accessed off Church Street and would involve the removal of part of an existing stone wall. Thereafter, the access would run immediately to the west of Clubhouse Farm.

11. Apart from the access road and part of Plot 1, the majority of the appeal site is located outside of the settlement boundary of Hinstock. By virtue of it being outside of the defined settlement it is, by definition in planning terms, located within the countryside. Although the site is predominantly outside of the settlement boundary, given its proximity to existing properties it cannot be considered as being truly isolated. However, it does not form part of the more recognisably developed part of Hinstock.
12. In my view, the removal of part of the stone wall and vegetation to create the access off Church Street would be in keeping with similar accesses along the road. As such, I do not consider that the construction of the access itself would cause material harm to the character and appearance of the area.
13. Whilst I recognise that the number of residential units has been reduced from the previous proposal, the development of four units would still result in the unacceptable incursion of built development into the open countryside. This would significantly alter the appearance and the contribution that the appeal site makes to the rural character of the area. The proposal would have a detrimental urbanising effect on this part of the countryside and would result in a separated cluster of development that would have no visibility from, or interaction with, Church Street.
14. The proposed dwellings would have reasonably sized gardens and, as such, I do not consider that the proposal would result in a cramped form of development of an extent that would warrant the dismissal of this appeal on that ground. However, there would be a degree of regularity in the urban form and layout of the proposed development that would markedly contrast with the diverse layout and character of development in the surrounding area.
15. At my site visit I observed land in the vicinity of the appeal site from the Nature Reserve. In such views the rear of Churchwood House was particularly evident. This demonstrated the dominance that built development can have on the character of this part of the countryside. The proposed development would appear to be positioned closer to the Nature Reserve and, in my view, would therefore unacceptably add to an urbanising effect on this part of the countryside.
16. For the above reasons, the proposed development would unacceptably harm the character and appearance of the surrounding area. It would therefore be contrary to Policies CS6 and CS17 of the Shropshire Council Core Strategy (2011) (Core Strategy) and Policies MD2 and MD12 of the Shropshire Council Site Allocations and Management of Development (SAMDev) Plan (2015). Amongst other things, these require development to contribute to and respect local distinctiveness and respond appropriately to the form and layout of existing development.

Appropriate location

17. Policy S11.2 of the SAMDev sets out the Community Hub and Cluster Settlements in the Market Drayton Area, which are identified in Core Strategy Policy MD1, together with the agreed housing requirements and key elements of each Hub and Cluster's development strategy. Hinstock is defined as a 'Community Hub'.

18. Core Strategy Policy CS4 states that in rural areas development will be focussed, amongst other areas, on Community Hubs and Clusters and does not permit development outside such settlements unless it meets the requirements of Core Strategy Policy CS5. Policy CS5 allows for development outside defined settlements where it meets one of several exceptions (albeit these are not exhaustive). This includes reference to 'other affordable housing/accommodation to meet a local need'. As set out above, the development would also not maintain or enhance the character of the countryside, which is also a requirement of this policy.
19. Policy MD7a of the SAMDev 'strictly controls' new market housing outside Community Hubs. This policy allows for suitably designed and located 'exception' sites where they meet 'evidenced' local needs. An 'exception' site is again required to deliver affordable housing/accommodation to meet a local need. Thus, the proposed market dwellings would not meet this requirement. Whether or not there is a local need or demand for bungalows, the three open market dwellings plus a self-build plot would not fall into any of the listed exceptions. This policy therefore provides no support for the proposal.
20. Policy MD3 of the SAMDev also allows for development outside allocations, subject to other policies, including CS5 and MD7a. It also requires development to meet the relevant design policies of the plan. Given my conclusions with regard to the effect of the proposal on the character and appearance of the surrounding area, the development would not comply with this policy.
21. The proposal would not be considered an 'isolated' development in terms of paragraph 84 of the NPPF. Nonetheless, while the NPPF seeks to resist such development in all but a few circumstances, it does not follow that all development which is not isolated is acceptable in principle, particularly considering other relevant development plan policies.
22. The Council indicates that Shropshire has 5.64 years supply of deliverable housing land against the housing requirement identified within the Core Strategy and 7.20 years supply of deliverable housing land against the local housing need. Furthermore, housing delivery in Shropshire over the last three years has exceeded the housing need for this period as calculated within the national housing delivery test (158% delivery).
23. The Council suggest that the housing guideline for the Hinstock Community Hub is around 60 dwellings over the Core Strategy plan period up to 2026. These dwellings would be delivered through allocated sites and infilling and conversions on suitable sites within the development boundary. Housing supply figures for the hub indicate that there were 116 housing completions up to 2021/22 and there are additional sites which benefit from planning permission which could be implemented.
24. Hinstock has therefore been considered a sustainable location for development in principle. Nevertheless, the plan is clear about the scale of development envisaged for Hinstock and where this should take place within it. While housing requirements may be a minimum, they appear to have been significantly surpassed and there is no apparent overriding need for additional windfall development outside the defined settlement boundary to meet any housing supply requirements. In this regard, I agree with the Council's contention that sites outside the development boundary will only usually be

considered where the housing guideline for the settlement would be unlikely to be met.

25. I am mindful that Policy MD3 specifically refers to the settlement housing guideline as a significant policy consideration, particularly where proposals would exceed the guideline figure. There is no evidence of a quantitative supply issue either locally or in the wider district.
26. In conclusion on this matter, the proposal would predominantly be located in the open countryside and no exceptions or evidenced housing need have been identified which would justify development in this location. The proposal is not an appropriate location for new development and would therefore be contrary to Core Strategy Policies CS4 and CS5 and SAMDev Policies MD3, MD7a and S11.2 (iv).

Effect on trees

27. There is some dispute between the Appellant and the owners of the adjacent properties to the west of the appeal site regarding the position, ownership and extent of the required root protection area (RPA) of trees currently positioned along the boundary between the sites. I have considered the information provided by the owners of the adjacent properties that the position of the proposed access road may cause damage to the RPA of the boundary trees. There is contention that this matter, together with some degree of dispute regarding the extent that pruning work may be permissible, could require the position of the access road to be pushed eastwards towards Clubhouse Farm and could necessitate the partial demolition of the existing building.
28. The Planning Officer's Report suggests that the Council's Tree Officer originally raised no objection to the appeal proposal, subject to conditions. However, following knowledge of the above dispute the Tree Officer requested the submission of an Arboricultural Method Statement and Tree Protection Plan to demonstrate how retained and off-site trees and hedges can be successfully protected during the construction of the proposed development.
29. The appeal submission includes an Arboricultural Method Statement (AMS) and Arboricultural Justification Report dated 26 May 2024 and 27 May 2024 respectively. These documents consider the arboricultural information provided by the owners of the adjacent properties to the west of the appeal site.
30. I have no evidence to suggest that any trees on, or adjacent to, the appeal site are the subject of a Tree Preservation Order. The AMS is based on a topographical survey provided by the Appellant which identifies the position of the tree stems. In considering the arboricultural information provided by the adjacent property owners, the AMS has revised the RPAs of a number of trees to the diameters recorded in the adjacent owners arboricultural report and explains why one tree diameter is not accepted as being correct.
31. The AMS sets out a number of proposed measures to ensure that retained trees are not harmed by the proposed development. These include a reduction in the width of the access road from 5m to 4.5m with the inclusion of a passing place, the use of trenchless insertion methods or the use of hand tools for service installation and the use of a three-dimensional cellular confinement system in the construction of the access drive.

32. In my view, the use of the above methods within the proximity of RPAs is common on construction projects. Furthermore, were I minded to allow this appeal, an appropriately worded planning condition could be imposed requiring the implementation of the details of such works and securing arboricultural supervision during the relevant construction period. Subject to the imposition of such condition, I am satisfied that the proposed development would have no material adverse impact on the RPA of trees in the vicinity of the property boundary that are to be retained.
33. Taking the above factors into account, I am satisfied that appropriate measures can be employed, secured by an appropriate planning condition, to protect the integrity of the root system of trees that are to be retained. As such, there would be no material conflict with the provisions of Policies CS6 and CS17 of the Core Strategy and Policies MD2 and MD12 of the SAMDev.

Affordable housing

34. Core Strategy Policy CS11 requires all new open market housing development to make appropriate contributions to the provision of local needs affordable housing having regard to the current prevailing rate, set using the Shropshire Viability Index and the viability of developments. The policy further states that for all sites of five dwellings and above, the provision of affordable housing will be expected on-site. For sites of less than five units, provision will be in the form of equivalent contributions towards the provision elsewhere in the local area, unless the developer wishes to make provision on-site.
35. The appeal proposal would provide for four residential units and would therefore be below the threshold for on-site provision as identified in Policy CS11. However, the policy, supported by the accompanying text, remains clear that provision should be made for a financial contribution towards affordable housing in circumstances where the development proposed is for less than five units. In this regard, I accept the Council's view that such provision would normally be secured by means of a completed planning obligation pursuant to Section 106 of the Town and Country Planning Act 1990.
36. I have no evidence to suggest that a completed planning obligation has been submitted with the planning application or as part of the submission documentation made in this appeal. I note that the Appellant refers to an email, dated 30 August 2022, in respect of the previous planning application and relates to comments from the Council's Affordable Housing Team. This states that "as the site is over 0.5ha and in a rural area the development will be required to contribute towards affordable housing and a pro-forma should be submitted in order for it to be agreed".
37. The Appellant contends that, as the appeal proposal relates to a site area of 0.38ha, it is below the threshold identified in the above email. As such, a contribution to affordable housing is not necessary. However, I have no evidence to indicate the planning policy basis for the alleged site area threshold of 0.5ha and how this may relate to the provisions of Policy CS11. Furthermore, I have no evidence to suggest that the viability of the proposed development may compromise any contribution to be made towards the provision of affordable housing.
38. Taking the above factors into account, and in the absence of any compelling evidence to the contrary, the proposal would not make appropriate provision

towards affordable housing. It would therefore be contrary to the provisions of Core Strategy Policy CS11.

Protected Species

39. The proposed development is located in relatively close proximity to the 'Old Church Farm Pond Nature Reserve'. There are a number of ponds within 250m of the site, including two directly south of the site which have historically supported a habitat for Great Crested Newts (GCNs). The submitted 'Extended Phase 1 Habitat Survey & Daytime Bat Survey' (November 2023) (EP1HS) provides a Habitat Suitability Index (HSI) assessment for the ponds. This identifies that the two ponds to the south of the site have 'Good' habitat suitability for GCNs, with a further pond to the east having 'Excellent' suitability.
40. The Appellant has secured an Impact Assessment and Conservation Payment Certificate (IACPC) from Natural England which confirms that the proposed development is eligible to enter into a District Level Licensing Scheme. The EP1HS states that as the site has been entered into the District Level Licensing Scheme (reference DLL-ENQ-SHRP-00036) there is no requirement to undertake any further GCN surveys or provide GCN habitat mitigation measures on site.
41. The Council's Planning Officer Report identifies that provided the works are carried out under the District Level Licensing Scheme, the Council's Ecology Officer is satisfied that the impacts of the development on GCNs are capable of being addressed. In this regard, I note that the submitted plans show temporary and permanent wildlife protection barriers and that the Appellant advises that the appeal proposal is positioned approximately 16m further away from the Nature Reserve than was the case in the previous scheme.
42. However, the Council contends that Natural England are required to have regard to the Conservation of Habitats and Species Regulations 2017 (as amended) and will only issue a licence pursuant to the District Level Licensing Scheme if three tests have been met. Namely: the development is necessary for preserving public health or public safety or other imperative reasons of overriding public interest; there is no satisfactory alternative; and the action will not be detrimental to maintaining the population of the species concerned at a favourable conservation status in its natural range.
43. The Council contend that the proposed development is not necessary to preserve public health or public safety. Likewise, there is no imperative reason of overriding public interest through the delivery of houses in a location that is not supported by the development plan where there is already sufficient housing delivery. Also, the Council suggest that the delivery of housing on sites, within and close to Hinstock, that have been previously granted planning permission is a satisfactory alternative to the proposed development.
44. The Council suggests that the proposal would fail the first two of the above three tests and therefore consider it unlikely that Natural England would issue a licence. Consequently, the Council consider that the appeal proposal would not provide sufficient mitigation measures and therefore it would likely result in damage to the protected species habitat and would be contrary to the provisions of the Conservation of Habitats and Species Regulations 2017 (as amended) and Section 15 of the NPPF.

45. I have no evidence of the views of Natural England on this matter and how that organisation may interpret compliance, or not, with the three tests. I recognise that in the previous application and the appeal both the Council and the Inspector considered that a licence pursuant to the District Level Licensing Scheme was unlikely to be forthcoming. However, I have no evidence of the information that was provided to the Council and the Inspector in that case which justified such assertion. Whilst the Council may be correct in the interpretation of the licence application, it is not the statutory decision maker in that regard.
46. In the absence of any evidence from Natural England in the appeal before me, I consider that any interpretation of the potential outcome of the District Level Licensing Scheme by that organisation can only be considered as being speculative. As such, I do not consider that it would be appropriate or soundly based for a reason for the refusal of planning permission in this regard to be based on a speculative assertion of how Natural England may, or may not, interpret the three tests. This is particularly pertinent in circumstances where I have no evidence, views or comment from that organisation, as the decision maker, of how such licence application may be interpreted.
47. In my view, and in the absence of any other evidence to the contrary, a speculative view on how Natural England may approach the licence would not form a sustainable basis on which a reason for the refusal of planning permission could be substantiated.
48. As a consequence of the above, I do not consider that it can be conclusively demonstrated that the appeal proposal would have a detrimental effect on the GCN habitat and the species itself of an extent that would justify the dismissal of this appeal on those grounds. Therefore, in the absence of any formal view from Natural England, I cannot be certain that the proposed development would be contrary to Policies CS6 and CS17 of the Core Strategy or MD12 of the SAMDev. Consequently, I have placed little weight on such potential conflict with the Development Plan on these matters in my determination of this appeal.

Other matters

49. St Oswald Church, a Grade II Listed Building, is located to the north of the appeal site. Although the Council has raised no concerns regarding the impact of the proposed development on designated heritage assets, I am nevertheless required to have regard to the statutory duty to consider the effect of the proposal on such assets. In applying the statutory test as set out in Section 72 (1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 I have had regard to the desirability of preserving or enhancing the designated heritage assets.
50. The church and adjoining cemetery are set above residential properties on Church Street and, in my view, the setting of this heritage asset is primarily associated with its immediate formal grounds. The proposed development would be set below the level of the church grounds and separated and screened from it by intervening residential development. As such, there would be no discernible views between the church and the proposed development. For these reasons, I find that the proposed development would preserve the special historic setting of the Grade II Listed Building.

51. In addition to the main issues set out above, I have taken into account the concerns raised by Hinstock Parish Council and a number of local residents regarding, amongst other things, potential contamination of the ponds to the south of the site, loss of privacy, the impact on nature conservation and highway safety. Although these matters have been carefully considered, they do not alter the main issues which have been identified as the basis for the determination of this appeal, particularly in circumstances where the Council's reasons for the refusal of planning permission do not identify any objection to the appeal scheme for these other reasons.
52. My attention has been drawn to the emerging Shropshire Local Plan. Neither party has referred to any emerging policies contained within that Plan. I have no evidence to suggest the current stage that this emerging Plan is at in the plan making process. However, the Council indicates that the appeal site remains outside of the draft proposed settlement boundary in the emerging Plan. Also, I have no indication of the level of unresolved objections to the policies contained therein. As such, I have given little weight to this emerging Plan.

Planning Balance

53. I recognise that both the existing NPPF and the Government's Draft NPPF seek to significantly boost the supply of housing land. I have also taken into account the Appellant's view that there is a local need for bungalows, albeit I have no substantive evidence to confirm that this may be the case. However, paragraph 47 of the NPPF remains clear that development should be achieved through a plan led system.
54. I also recognise that there are benefits, both socially and economically, associated with the proposed development, notably its contribution to boost the supply of housing generally. The proposal would also provide for a self-build plot and would thus gain some support from Paragraph 70 (b) of the NPPF which supports small sites to come forward for self-build and custom-build housing.
55. However, given the scale of development, any benefits associated with these factors would be limited. Furthermore, the evidence suggests that the Council can demonstrate more than a five-year housing land supply and the housing requirement identified for Hinstock has been more than met. There is no evidence of a quantitative housing supply issue either locally or in the wider district.
56. I have found that there would be environmental harm caused to the character and appearance of the local area and the creation of new housing at an inappropriate location. The proposed development within the countryside and being contrary to the locational strategy of the development plan would not accord with the environmental dimension of sustainability. In addition, the proposal does not provide for an appropriate contribution to the provision of affordable housing.
57. Overall, the benefits associated with the development are not sufficient to outweigh the clear conflict with the Development Plan. Furthermore, the expansion of Hinstock beyond the defined settlement boundary would undermine the spatial integrity of the Development Plan and the ability of the Council to deliver a truly plan-led approach.

Conclusion

58. There are no material considerations, either individually or in combination, that would outweigh the identified harm and associated conflict with the Development Plan when read as a whole. Consequently, for the above reasons, taking into account the evidence before me and all other matters raised, I conclude that the appeal should be dismissed.

Stephen Normington

INSPECTOR