



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

Date: Monday, 13 January 2025

**Committee: Northern Planning Committee**

**Date:** Tuesday, 21 January 2025

**Time:** 2.00 pm

**Venue:** Council Chamber, Shirehall, Abbey Foregate, Shrewsbury, SY2 6ND

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

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

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

The Council's procedure for holding Socially Distanced Planning Committees including the arrangements for public speaking can be found by clicking on this link:  
<https://shropshire.gov.uk/planning/applications/planning-committees>

Tim Collard  
Assistant Director – Legal and Governance

**Members of the Committee**

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

**Substitute Members of the Committee**

Roy Aldcroft  
Steve Charmley  
Mary Davies  
David Evans  
Julia Evans  
Nick Hignett  
Pamela Moseley  
Ed Potter  
Colin Taylor  
David Vasmer

Your Committee Officer is:

**Emily Marshall** Committee Officer

Tel: 01743 257717

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

# AGENDA

## 1 Apologies for Absence

To receive apologies for absence.

## 2 Minutes (Pages 1 - 4)

To confirm the Minutes of the meeting of the North Planning Committee held on 19<sup>th</sup> November 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 12.00 p.m. on Wednesday, 15<sup>th</sup> January 2025.

## 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 Springfields, Rowton, Shrewsbury, Shropshire, SY5 9EJ (24/04206/FUL) (Pages 5 - 16)

Erection of replacement dwelling following demolition of existing dwelling

## 6 Proposed Development Land Off Mile End Roundabout, Oswestry, Shropshire (24/04641/AMP) (Pages 17 - 24)

Non material amendment to shorten the length of the road and to remove a number of vehicle access points from Road 1 to the proposed plots of the Oswestry Innovation Park relating to Planning Permission 21/01334/EIA

## 7 Proposed Development Land Off Mile End Roundabout, Oswestry, Shropshire (24/04642/AMP) (Pages 25 - 32)

Non-material amendment to change a number of vehicle access points from Road 2 and 3 to the proposed plots of the Oswestry Innovation Park, relating to Planning Permission 23/04776/REM (amended description)

## 8 Welshpool Road, Bicton Heath, Shrewsbury, Shropshire (21/00924/EIA) (Pages 33 - 86)

North West Relief Road scheme. comprising - construction of 6.9km single carriageway (7.3m wide) road; severance of local roads and footpaths; provision of combined footway/cycleway; erection of three bridged structures over carriageway; diversion of existing bridleway/footpath via an underpass; 670m long viaduct; bridge over railway; two flood storage areas; provision of two new roundabout junctions and improvements to two existing roundabouts; associated traffic calming measures, landscaping and drainage

schemes (Amended)

**9 Appeals and Appeal Decisions (Pages 87 - 140)**

**10 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, 18<sup>th</sup> February 2025 in the Shrewsbury Room, Shirehall, Shrewsbury.



## Committee and Date

Northern Planning Committee

21<sup>st</sup> January 2025

## **NORTHERN PLANNING COMMITTEE**

**Minutes of the meeting held on 19 November 2024**

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

**10.00 - 10.22 am**

**Responsible Officer:** Emily Marshall

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

### **Present**

Councillor Paul Wynn (Chairman)

Councillors Roy Aldcroft, Garry Burchett, Geoff Elner, Steve Charmley, Julian Dean and Nat Green

### **42 Apologies for Absence**

Apologies for absence were received from Councillors Vince Hunt (substitute: Roy Aldcroft) Roger Evans, and Joyce Barrow.

### **43 Minutes**

#### **RESOLVED:**

That the Minutes of the meeting of the North Planning Committee held on 17 September 2024 be approved as a correct record and signed by the Chairman.

### **44 Public Question Time**

There were no public questions.

### **45 Disclosable Pecuniary Interests**

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

With reference to Agenda Items 5 and 6, Councillor Green declared that as the local member for these items, he would make a statement that applied to both and would then withdraw from the meeting and take no part in the debate or vote on these applications.

With reference to Agenda Item 8, planning application, Councillor Green declared that as he knew the property owner he would take no part in the debate or vote on this application.

**46 Riverside Shopping Centre, Pride Hill, Shrewsbury, Shropshire (24/03682/AMP)**

The Principal Planning Officer introduced the application seeking permission for a non-material amendment to the previously approved planning application, ref: 23/05402/FUL, to amend the description of development to include for the provision of public toilets, as part of the redevelopment of Riverside Shopping Centre, Shrewsbury. He advised Members that the application was simply to amend the wording that was previously granted and that details of the design of the toilets would be considered as part of a subsequent section 73 application.

In accordance with the Local Protocol for Councillors and Officers dealing with Regulatory Matters (Part 5, Paragraph 15.1) Councillor Nat Green, as local councillor, made a statement which covered both this and the next agenda item (Riverside Shopping Centre, Variation of Condition No. 2) and then left the room, took no part in the debate and did not vote on this item.

Members generally welcomed the proposals.

**RESOLVED:**

That in accordance with the officer recommendation planning permission be granted, due to proposed amendment being considered non-material when having regard to the effect of the original planning permission

**47 Riverside Shopping Centre, Pride Hill, Shrewsbury, Shropshire (24/03681/VAR)**

The Principal Planning Officer introduced the application seeking permission for a variation to the previously approved planning application, ref: 23/05402/FUL, to make a series of amendments to the previously approved plans and drawings as part of the redevelopment of Riverside Shopping Centre, thereby amending Condition 2 to the original permission. He took Members through the proposed amendments which included changes to the proposed landscaping and amendments to the proposed podium and the addition of public toilets under the podium.

The Principal Planning Officer advised the meeting that there was an amendment to condition 23 in the report as there had been a typographical error. He stated that the condition should read "The podium level, as a development platform, shall be set at a minimum height of 54.94m AOD" not 59.49m as set out in the report

In accordance with the Local Protocol for Councillors and Officers dealing with Regulatory Matters (Part 5, Paragraph 15.1) Councillor Nat Green, as local councillor, had already made a statement covering this application during the previous agenda item and was not present in the room, took no part in the debate and did not vote on this application.

A Member welcomed the inclusion of a second lift and sought confirmation that the recommendations from the Environment Agency had been agreed to. The Principal Planning Officer advised the meeting that the recommendations had been included in an addendum to the flood risk assessment.

**RESOLVED:**

That in accordance with the officer recommendation planning permission be granted subject to the conditions set out in appendix 1 subject to the amendment of condition 23 to read "The podium level, as a development platform, shall be set at a minimum height of 54.94m AOD" .

**48 Visitor Centre And Premises At Conduit Head, Nobold Lane, Shrewsbury, Shropshire (24/03420/FUL)**

*Councillor Green rejoined the meeting*

The Planning Officer introduced the application which sought permission to replace an existing outside toilet to create one suitable for disabled access, to support the buildings use as a training and meeting hall for the Shropshire Beekeepers' Association. She advised the meeting that the application was before them as the building was on Shropshire Council land.

Members were fully in support of the application.

**RESOLVED:**

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

**49 120 Battlefield Road, Shrewsbury, Shropshire, SY1 4AQ (24/03469/FUL)**

*In accordance with his declaration Councillor Green left the table and took no part in the debate or voting on the following item*

The Planning Officer introduced the application which was for permission for the erection of rear single storey extension to an existing dwelling and internal alterations. She advised that the application was before the Committee as the property was owned by a member of the Council.

**RESOLVED**

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

**50 Appeals and Appeal Decisions**

**RESOLVED:**

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

**51 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 10 December 2024 in the Shrewsbury/Oswestry Room, Shirehall, Shrewsbury.

Signed ..... (Chairman)

Date: .....





Committee and date
<b>Northern Planning Committee</b>
<b>21st January 2025</b>

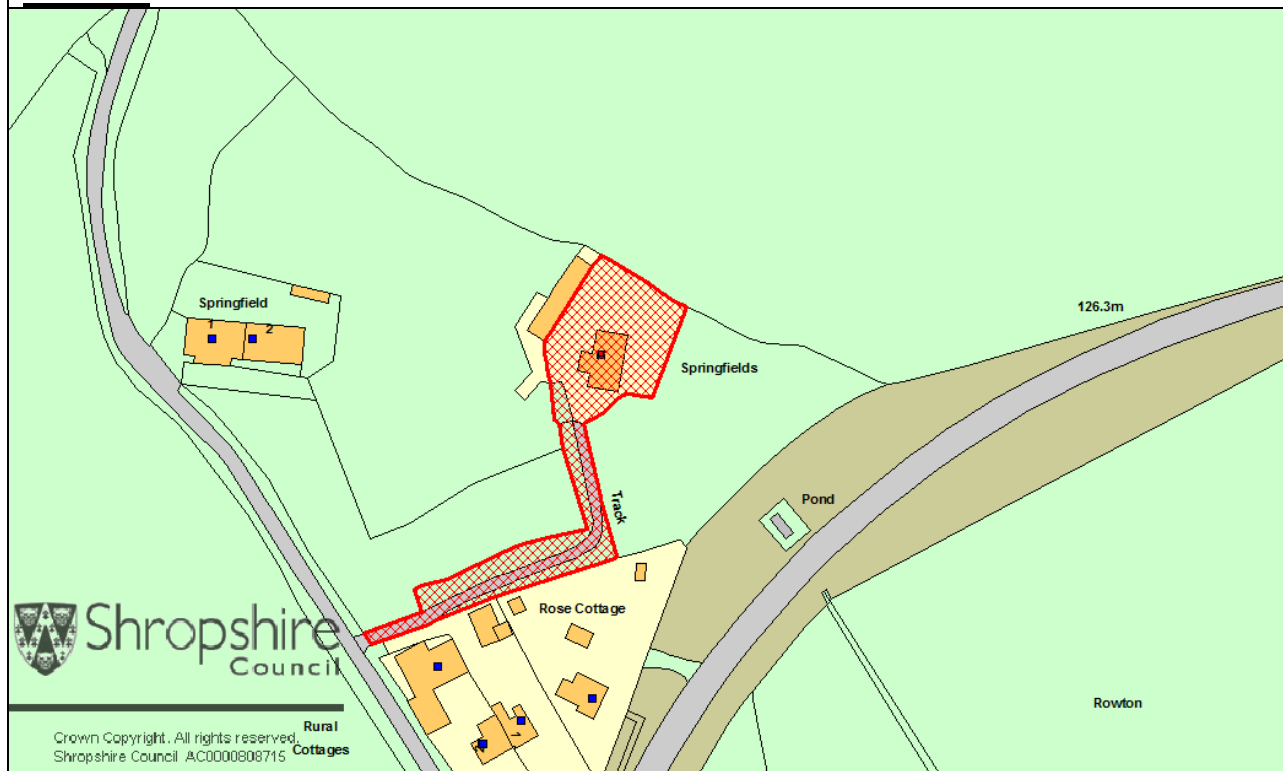
## Development Management Report

Responsible Officer: Rachel Robinson, Director of Health Wellbeing and Prevention

### Summary of Application

<b><u>Application Number:</u></b> 24/04206/FUL	<b><u>Parish:</u></b>	Alberbury With Cardeston
<b><u>Proposal:</u></b> Erection of replacement dwelling following demolition of existing dwelling		
<b><u>Site Address:</u></b> Springfields Rowton Shrewsbury Shropshire SY5 9EJ		
<b><u>Applicant:</u></b> TK and L Evans		
<b><u>Case Officer:</u></b> Sara Robinson	<b><u>email:</u></b> sara.robinson@shropshire.gov.uk	

**Grid Ref:** 336505 - 312477



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

1. The proposed replacement dwelling is materially higher and significantly larger than the existing dwelling and is not sympathetic to the size, mass, character and appearance of the existing structure. In addition, the proposed new dwelling will not meet the policy objective of regulating the size of replacement properties in order to limit the tendency towards the provision of larger dwellings in the countryside.

The proposed design and scale for the dwelling does not satisfy SAMDev Policy MD7a Managing Housing Development in the Countryside or para 2.23 of SC Type and Affordability of Housing SPD. Moreover, the proposed replacement dwelling does not respond appropriately to the form of existing development and will be prominent in the rural landscape and have detrimental visual impact where the existing dwelling although of no historic significance in its relatively simple form contributes to the local character. Whilst an appropriately designed and slightly larger replacement dwelling may well be acceptable in principle, the proposed replacement dwelling will not conserve and enhance the built and natural environment or be appropriate in scale and design taking into account local character and context and that of the existing dwelling and would be contrary to SC Policies CS6 and 17 and SAMDev Policies MD2 and 13 and the NPPF.

## REPORT

### 1.0 THE PROPOSAL

- 1.1 The application seeks permission for the erection of a replacement dwelling and car port following demolition of existing dwelling and outbuilding at Springfield, Rowton.
- 1.2 The dwelling referred to as Springfield is a single storey bungalow. No existing plans of the bungalow have been submitted, however the bungalow measures approximately 15.2m in width and 8.3m in depth. The dwelling has a gross internal floor area of approximately 124.7m<sup>2</sup>.
- 1.3 The replacement dwelling is proposed to be part single storey and part two storey, three bedroom dwelling. The dwelling is proposed to be of a single storey L shape to include the entrance hall, utility and open plan living and kitchen area with a link which will include al-fresco dining area and office. The link will lead into a protruding two storey element which will include two bedrooms and a bathroom on the ground floor and a further master bedroom with en-suite on the first floor. The main single storey element is to measure approximately 6.25m in width and 19.7m in depth and will reach a height to the ridge and eaves of approximately 5.45m and 2.7m respectively. The link will measure approximately 3m in width and 10.5m in depth and the flat roof will reach a height of approximately 2.3m. The two storey element will measure approximately 10.7m in width and 5.9m in depth and will reach a height to the ridge and eaves of approximately 6.5m and 4.5m respectively. It is proposed for the replacement dwelling to be finished in reclaimed Cardeston

Stone and timber for the walls and the roof material is yet to be confirmed.

- 1.4 The proposed replacement dwelling is proposed to have an internal floor area of approximately 246.5m<sup>2</sup> which is approximately 97% increase on the original floor area of the existing bungalow.
- 1.5 The bungalow which currently sits on site was approved in 1964 as a replacement dwelling for a cottage which originally located on the site. An extension was subsequently allowed to the bungalow in 1976.
- 1.6 Pre-planning application advice was sought in 2022 for a replacement dwelling. The principle was accepted; however, the scale and design of the development was considered unacceptable. An application was subsequently submitted under reference 23/01337/FUL which had not been altered from the pre-application enquiry and was refused under delegated powers. Further pre-application advice was sought in the form of a site visit which discussed the proposed development. Officers outlined that the scale of the development should be reduced and the garage detached. Following the site meeting, another pre-application enquiry was submitted which had resulted in some alterations, however Officers considered that these were not sufficient to overcome the previous refusal reasons. Earlier this year a similar application was submitted. Refusal was recommended by officers due to the design and scale of the proposed development. The application was refused by committee in June.
- 1.7 Following the previous refusal the red line boundary has been amended in order to include the existing residential curtilage only which excludes the Dutch barn. The proposed dwelling has been re-located so as to sit closer to the footprint of the original bungalow and the proposed attached carport has been removed.

## **2.0 SITE LOCATION/DESCRIPTION**

- 2.1 The development site is located adjacent to the dispersed settlement of Rowton, however is identified as Open Countryside within the SAMDev. The site is slightly detached from the neighbouring dwellings. It is noted that there is formed of a mix of two storey dwellings, storey and a half, as well as a bungalow to the south.
- 2.2 The site is bound by agricultural land to the north, east and west, and beyond the access track to the south are neighbouring residential dwellings.

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

- 3.1 In accordance with the adopted scheme of delegation, the Local Ward Member has called-in the application to be determined at committee, based on material planning reasons and within their relevant 21-day period.

**4.0 Community Representations**

Full comments can be found on the Shropshire Council website.

**4.1 Consultee Comment****4.1.1 Drainage & SUDS - 08/11/2024**

The following item requires attention:

1. A scheme of surface and foul water drainage should be submitted for approval.

The applicant must demonstrate by infiltration test results or ground investigation, that soakaway to ground is not feasible, if it is not utilised within the drainage strategy.

**4.1.2 SC Highways - 11/11/2024**

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 and subject to the development hereby approved being constructed in accordance with approved Proposed Site Plan Drawing no. SA37096-BRY-ST-PL-A-002, does not wish to object to this planning application.

Observations/Comments:

From the highways perspective there are no objections to the proposal.

**4.1.3 Affordable Housing - 21/11/2024**

Comments provided by Affordable Housing in relation to the previously refused application (reference 24/01161/FUL) remain relevant to this revised proposal/application

**4.1.4 SC Ecology - 26/11/2024**

I am satisfied that the Ecology standing advice can be used for this application.

**4.2 Public Comments****4.2.1 Local Member - 14/11/2024**

Please could I call in this application should needs be. As with previous applications my reasoning is unchanged.

**4.2.2** 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**

Principle of development  
Siting, scale and design of structure  
Visual impact and landscaping  
Highways  
Ecology

## **6.0 OFFICER APPRAISAL**

### **6.1 Principle of development**

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

6.1.2 Shropshire Core Strategy Policy CS6 seeks to ensure that all development protects, restores, conserves and enhances the natural, built and historic environment and is appropriate in scale, density, pattern and design taking into account the local context and character, and those features which contribute to local character, having regard to national and local design guidance, landscape character assessments and ecological strategies where appropriate;

6.1.3 Policy CS17: Environmental Networks is concerned with design in relation to its environment, but places the context of the site at the forefront of consideration i.e. that any development should protect and enhance the diversity, high quality and local character of Shropshire's natural, built and historic environment and does not adversely affect the visual, ecological, geological, heritage or recreational values and function of these assets.

6.1.4 Policy MD2: Sustainable Design of the Site Allocations and Management of Development (SAMDev) Plan additionally seeks to achieve local aspirations for design where possible.

6.1.5 Section 12 of the National Planning Policy Framework; Achieving well-designed places, reinforces these goals at a national level, by requiring design policies to reflect local aspirations ensuring developments are sympathetic to local character, visually attractive and establish a strong sense of place.

6.1.7 The proposed development would result in a replacement dwelling and the principle of development is acceptable in this instance. The development would be acceptable subject to the assessment of siting, scale and design of structure, visual impact and landscaping as well as other relevant matters which are assessed in the

report below.

## 6.2 **Siting, scale and design of structure**

- 6.2.1 The adopted development plan for Shropshire comprises the Local Development Framework (LDF) Core Strategy, the Supplementary Planning Document (SPD) on the Type and Affordability of Housing and the Site Allocations and Management of Development (SAMDev) Plan. Since the adoption of the Shropshire Core Strategy (March 2011) the National Planning Policy Framework (NPPF) has been published and is a material planning consideration in planning decisions. The NPPF has been further revised (2024) since the publication of the SPD and the adoption of the SAMDev Plan (2016).
- 6.2.2 The proposed site is located outside of the settlement of Rowton. In terms of policy and for the purposes of the development plan, the development site is classified as within open countryside, where new open market housing would not be permitted.
- 6.2.3 Policy CS5 states that new development in the countryside will be strictly controlled in accordance with national planning policies protecting the countryside, and with an overarching aim of maintaining and enhancing the vitality and character of the countryside. Policy CS11 is closely linked with the Strategic Approach (Policy CS1) and particularly with Policies CS4 and CS5, and together these aim to ensure that the development that does take place in the rural areas is of community benefit with local needs affordable housing a priority.
- 6.2.4 SAMDev Policy MD7a, Managing Housing Development in the Countryside, indicates at criterion 3. that replacement dwelling houses will only be permitted where the dwelling to be replaced is a permanent structure with an established continuing residential use. Replacement dwellings should not be materially larger and must occupy the same footprint unless it can be demonstrated why this should not be the case. Where the original dwelling had been previously extended or a larger replacement is approved, permitted development rights will normally be removed.
- 6.2.5 Explanatory para. 3.62 provides further detail as to the application of the policy. The control of replacement of dwellings in the countryside needs to be considered in conjunction with general criteria which also highlight and address visual, heritage loss and other impacts associated with proposals for replacement buildings. In the case of residential properties, there is additionally the objective of regulating the size of replacement properties to limit the tendency towards the provision of larger dwellings in the countryside and to maintain a mix of dwelling types.
- 6.2.6 SAMDev Policy MD7b, general management of development in the countryside indicates that (2): proposals for the replacement of buildings which contribute to the local distinctiveness, landscape character and historic environment, will be resisted unless they are in accordance with policies MD2 and MD13. Any negative impacts associated with the potential loss of these buildings, will be weighed with the need for the replacement of damaged, substandard and inappropriate structures and the

benefits of facilitating appropriate rural economic development.

- 6.2.7 Explanatory para. 3.66 indicates that proposals for replacement of dwellings can significantly impact on the character of the countryside and there is a need to ensure appropriate scale, design and location of new development.
- 6.2.8 The Adopted Type and Affordability of Housing Supplementary Planning Document provides further detail;
- At para. 2.20. the SPD states that the size of dwellings in the countryside can be of concern, as the market trend is towards providing larger and more expensive dwellings and this tends to exclude the less well-off...it is important to maintain and provide an appropriate stock of smaller, lower cost, market dwellings.
  - Para.2.22 indicates that rural replacement dwellings outside of settlements will only be permitted provided that the existing building has established and continuing residential use rights and has not been abandoned.
  - Para 2.23 reiterates that proposals for replacement rural dwellings must meet CS6 and 17. Regard will also be had to the NPPF and to the following:
    - The visual impact of the replacement dwelling or existing dwelling plus extension on the surroundings and the need to respect the local character of the area, taking account of bulk, scale, height and external appearance of the resultant dwelling.
    - A requirement to be sympathetic to the size, mass, character and appearance of the original building. A replacement dwelling should ordinarily be sited in the same position as the original dwelling.
    - The existing balance of housing types and tenures in the local area, and the need to maintain a supply of smaller and less expensive properties in the local area that are suitable for the needs of many newly-forming households

The proposed replacement dwelling will sit partially on the footprint of the existing bungalow however the orientation would be slightly different to that existing.

- 6.2.9 It was advised within the pre-application written advice that the proposed development should be a storey and a half as Policy MD7a states that;  
*Replacement dwellings should not be materially larger and must occupy the same footprint unless it can be demonstrated why this should not be the case. Where the original dwelling had been previously extended or a larger replacement is approved, permitted development rights will normally be removed.*
- 6.2.10 The NPPF states the following;  
*131. The creation of high quality, beautiful and sustainable buildings and places is fundamental to what the planning and development process should achieve. Good design is a key aspect of sustainable development, creates better places in which to live and work and helps make development acceptable to communities. Being clear about design expectations, and how these will be tested, is essential for achieving this. So too is effective engagement between applicants, communities, local planning authorities and other interests throughout the process.*

6.2.11 It is noted that the bungalow currently on site is out of character for the area and that the proposed development is not cohesive. The design and access statement has referred to some buildings within the vicinity, however, does not refer to neighbouring residential dwellings to the south west of the site.

6.2.12 The proposed design and scale of the proposed dwelling is considerably larger than that of the previous bungalow and therefore would not comply with relevant planning policies. Further consideration needs to be given to the design of surrounding properties and the scale and massing of the dwelling on site.

### 6.3 **Visual impact and landscaping**

6.3.1 It is noted that the replacement of a bungalow with a part single storey and part two storey dwelling will result in a visual impact. The existing bungalow is of a modest design and scale and is seen against the larger Dutch barn to the rear.

6.3.2 The proposed development will be part single storey and part two storey. The development will visually be different to that of the existing bungalow, however as the development will result in a replacement building.

6.3.3 In light of the above it is considered that the proposed development will not result in an unacceptable visual impact.

### 6.4 **Highways**

6.4.1 SC Highways have been consulted as part of the proposed development.

6.4.2 SC Highways have raised no objections to the replacement property and the use of the existing access would be acceptable and subject to appropriately worded conditions and informative notes being attached to any grant of permission.

### 6.5 **Ecology**

6.5.1 Para 187 of the NPPF indicates that planning decisions should contribute to and enhance the natural and local environment by minimising impacts on and providing net gains for biodiversity. Core Strategy policy CS17 requires development to protect and enhance the diversity and high quality of Shropshire's natural environment.

6.5.2 An Ecological Assessment has been submitted as part of the proposed development and has been reviewed by the SC Ecologist. The SC Ecologist has requested a number of conditions and informative notes to be attached to any grant of permission.

6.5.3 The development is exempt from Biodiversity Net Gain as it would be a "Self Build and custom build development".



6.5.4 In light of the above, in consideration of ecological issues, it is considered that the proposed development complies with relevant planning policies.

## 6.6 Drainage

6.6.1 SC SUDS and Drainage have noted that the application has not been supported by a scheme of surface and foul water drainage. SC SUDS and Drainage have stated that a condition and informative note should be attached to any grant of permission to ensure the drainage details are provided and a suitable means of drainage undertaken following relevant investigations.

## 7.0 CONCLUSION

7.1 The proposed replacement dwelling is materially higher and larger than the existing dwelling and is not sympathetic to the size, mass, character and appearance of the original structure. In addition, the proposed new dwelling will not meet the policy objective of regulating the size of replacement properties in order to limit the tendency towards the provision of larger dwellings in the countryside.

7.2 The proposed design and scale for the dwelling does not satisfy SAMDev Policy MD7a Managing Housing Development in the Countryside or para 2.23 of SC Type and Affordability of Housing SPD. Whilst an appropriately designed and slightly larger replacement dwelling may well be acceptable in principle, the proposed replacement dwelling will not be appropriate in and would be contrary to SC Policies CS6 and CS17 and SAMDev Policies MD2 and MD13 and NPPF.

## 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: NPPF

Core Strategy and Saved Policies:  
CS5, CS6, CS17, MD2, MD7a, MD7b

### RELEVANT PLANNING HISTORY:

24/01161/FUL Erection of replacement dwelling and car port following demolition of existing dwelling and outbuilding REFUSE 19th June 2024

SA/76/0336 Extension to front elevation to provide dining room. PERCON 2nd June 1976

11. Additional Information

View details online: <http://pa.shropshire.gov.uk/online-applications/applicationDetails.do?activeTab=summary&keyVal=SMACVNTDLEP00>

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 None.

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Committee and date

**Northern Planning Committee**

21<sup>st</sup> January 2025

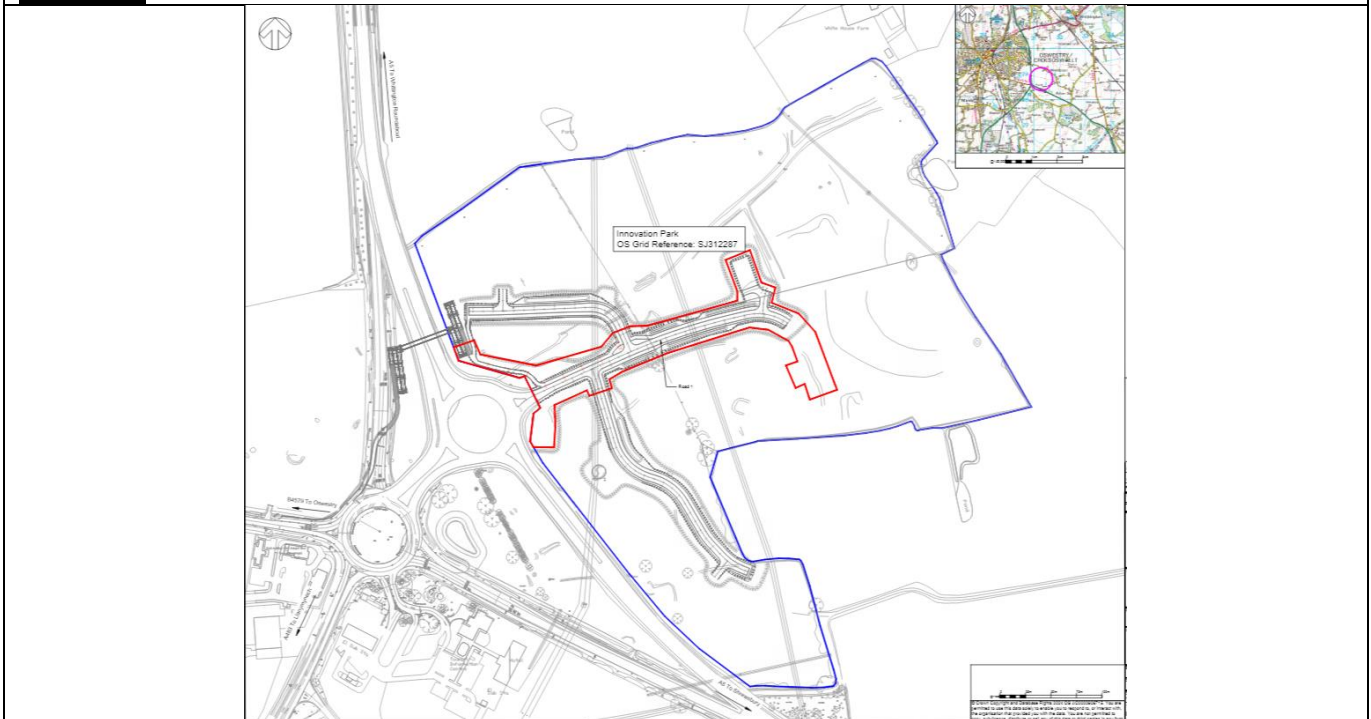
## Development Management Report

Responsible Officer: Rachel Robinson, Director of Health Wellbeing and Prevention

### Summary of Application

<b><u>Application Number:</u></b> 24/04641/AMP	<b><u>Parish:</u></b>	Oswestry Rural
<b><u>Proposal:</u></b> Non material amendment to shorten the length of the road and to remove a number of vehicle access points from Road 1 to the proposed plots of the Oswestry Innovation Park relating to Planning Permission 21/01334/EIA		
<b><u>Site Address:</u></b> Proposed Development Land Off Mile End Roundabout Oswestry Shropshire		
<b><u>Applicant:</u></b> Shropshire Council		
<b><u>Case Officer:</u></b> Ollie Thomas		<b><u>email:</u></b> ollie.thomas@shropshire.gov.uk

**Grid Ref:** 330960 - 328640



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**Recommendation:- Grant Permission due to the proposed amendment being**

**considered non-material when having regard to the effect of the original permission.**

## **REPORT**

### **1.0 THE PROPOSAL**

- 1.1 This application is seeking permission for a non-material amendment to the previously approved planning application, ref: 21/01334/EIA, to amend the approved drawings and plans (Condition 5) to show the removal of vehicle access points from Road 1, within the site. The change is being sought as a result of ongoing design review by the applicant, whereby as the end operators are not yet known, the provision of access spurs serving individual plots has been deemed an unnecessary requirement. Instead once end-users are identified, the access junctions can be submitted for approval based on their specific requirements alongside the detailed matters associated with the operators needs for any new buildings/structures.
- 1.2 The removed access points will be replaced by hardstanding to provide continuous footway/cycleway on both sides of Roads 2 and 3. In addition, the total length of Road 1 has been shorted by 72 metres to allow for flexibility on the disposal and development of the plots.
- 1.3 There have been no previous amendments to the original planning permission, either through s96A (non-material) or s73 (variation) of the Town and Country Planning Act 1990. However, there is a concurrent non-material amendment being sought for the same site and in relation to the reserved matters application that granted the internal roads. Whilst the changes proposed are linked in that they consider the same site and are seeking similar changes, they are not interdependent on one another.

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

- 2.1 The application site extends to an area of 1.18 hectares and is surrounded largely by open countryside. The surrounding land use is predominantly agricultural to the east and north east, residential to the northwest and commercial to the west due to Maesbury Road Industrial Estate. In addition to agricultural land, the south consists of some commercial use at Mile End Service Area and some recreational use provided by the Mile End Golf Club. The A5 public highway runs parallel to the west of the site and the A483 and Mile End Roundabout forms the main access point for the site.
- 2.2 The planning permission to which this amendment relates has been previously implemented and earthworks have been undertaken which has resulted in a material change in the character and setting of the site and is experiencing heightened activity through construction operations.

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

- 3.1 This application does not meet the criteria for delegated decisions as set out in the Council's adopted Scheme of Delegation, given the application has been submitted by Shropshire Council to itself which also acts as the Local Planning Authority. The application is therefore presented to Planning Committee for determination.

#### **4.0 Community Representations**

- 4.1 As an application to make a non-material amendment is not an application for planning permission, the provisions relating to statutory consultation and publicity do not apply. The Local Planning Authority has discretion in whether and how they choose to inform other interested parties or seek their views.
- 4.2 Whilst the changes being sought are non-material, the LPA has nonetheless sought the views of the Local Highways Authority only. This is in recognition that the proposed changes are in relation to amendments to the internal access arrangements serving individual plots, with no impact on the wider highway network or any other external environmental factors.

#### **4.3 Consultee Comment**

#### **4.4 SC Highways - No objections**

No objection is raised to the removal of access point currently showing on the current planning consent, acknowledging that these will come forward as part of separate Plot applications where the site layouts and building footprints will determine the precise access locations. The proposals have no material highway impact upon the adjacent Mile End Roundabout.

#### **4.5 Public Comments**

- 4.6 As by definition the changes being sought are non-material, the LPA has not carried out any publicity during the determination of this application.

#### **5.0 THE MAIN ISSUES**

Whether the proposed amendment is considered 'non-material' to the original grant of permission.

#### **6.0 OFFICER APPRAISAL**

##### **6.1 Flexibility for planning permissions**

- 6.1.1 When planning permission is granted, development must take place in accordance with the permission and conditions attached to it, and with any associated legal agreements. Notwithstanding, it is accepted that new issues may arise after planning permission has been granted. Where these modifications are less substantial, the planning system has provisions in place to make non-material

amendments to the original permission. Such amendments can take the form of revisiting planning conditions imposed on the original permission, imposing new conditions or altering the proposed description.

- 6.1.2 There is no statutory definition of 'non-material', instead it is dependent on the context of the overall scale of development and regard must be had to the effect of the change, together with any previous changes. It can therefore be said that if a change is to be considered as 'material', it must be of significance and conversely for a change to be 'non-material', where there is no resultant harm (in planning terms), this can be considered as lacking in materiality.

## **6.2 Significance and harm**

- 6.2.1 The original planning permission granted *inter alia* the formation of a 360m spine road; two 3.5m wide foot and cycleways; and, one 2m wide footpath, on land off Mile End Roundabout to support the creation of a new 'Oswestry Innovation Park'. The wider site was allocated for employment use under the adopted Local Plan, with the planning permission granting a range of commercial and employment uses, alongside hotel use and other retail, restaurant, financial and professional services.
- 6.2.2 The original application was submitted in hybrid, with full details submitted to deliver the required on-site infrastructure and outline details for the proposed mix of uses.
- 6.2.3 As mentioned above, the provision of access junctions serving individual plots within the employment site is considered unnecessary at this early stage of the development programme, where end-users are not yet identified. Whereby should the access spurs be installed as previously approved, this would likely result in deterring potential operators due to unacceptable access arrangements specific to their needs, and/or require amended plans to be submitted at a later date. The proposed changes are therefore ensuring the greatest flexibility in attracting local, regional and national operators to the site.
- 6.2.4 As confirmed by the Local Highways Authority, the proposed changes raise no material impact on the local highway network or upon the adjacent Mile End Roundabout. This is on the basis, that the installation of the access junctions as previously approved would not result in any vehicle movements, as the site would not become operational until such time detailed matters are provided for the individual plots.

## **6.3 The effect of the change on the original permission, as granted**

- 6.3.1 In determining the above judgement that the proposed change is neither of any significance or harm, when considered against the original planning permission. The application is therefore recommended for approval.

## **7.0 CONCLUSION**



7.1 The proposed amendments to the previously approved plans and drawings, to show the removal of individual access points, are considered non-material when having regard to the effect of the change proposed on the planning permission as previously granted.

7.2 It is Officer's recommendation that permission be **GRANTED**.

7.3 It is Officer's view that in granting this application, no new conditions need imposing, or the deletion of existing conditions attached to the original permission.

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

### **8.1 Risk Management**

The principal risk associated with this recommendation is as follows:

- 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.

This risk need to be balanced against the risk of not proceeding to determine the application.

### **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 HISTORY:

**20/03871/SCR** Proposed Innovation Park on land to the East of Oswestry SCO 8th January 2021

**20/04574/SCO** Scoping Opinion for the proposed development at Oswestry Innovation Park SCO 8th January 2021

**21/01334/EIA** Hybrid Planning Application for:

Full planning permission - formation of a 360m spine road; two 3.5m wide foot and cycleways; one 2m wide footpath; one electricity substation; supporting utilities infrastructure; drainage system; landscaping and ancillary works;

Outline planning permission - 10 plots to be delivered in four phases, providing:

- a hotel (use class C1) up to 30,000sq. ft;
- three units providing up to 6,000sq. ft of hospitality and up to 3000sq. ft of services;
- five mixed use units providing general industry with ancillary office (B2 & E) providing up to 180,000sq. ft;
- one office unit (use class E) providing up to 15,000sq. ft;
- one light industrial unit (use class E) providing up to 63,000sq. ft;
- two mixed use units providing storage/distribution with ancillary office (B8 & E) providing up to 200,000sq. ft;
- the provision of green infrastructure and all ancillary works. GRANT 13th July 2021

## 11. Additional Information

View details online: <http://pa.shropshire.gov.uk/online-applications/applicationDetails.do?activeTab=summary&keyVal=SO366HTDM5600>

containing exempt or confidential information)

Cabinet Member (Portfolio Holder) - Councillor Chris Schofield

Local Member

Cllr Joyce Barrow

Appendices - N/A

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## AGENDA ITEM



Committee and date

**Northern Planning Committee**

**21st January 2025**

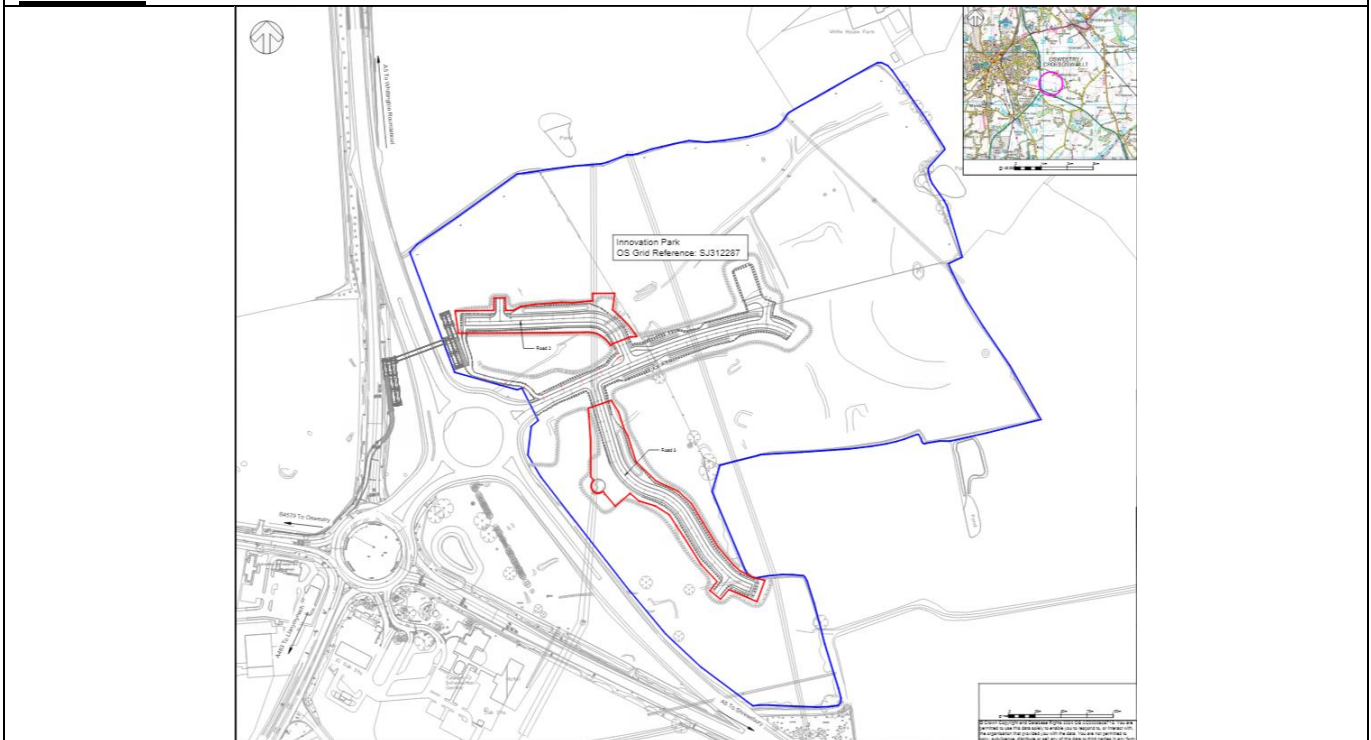
### Development Management Report

Responsible Officer: Rachel Robinson, Director of Health Wellbeing and Prevention

#### Summary of Application

<b><u>Application Number:</u></b> 24/04642/AMP	<b><u>Parish:</u></b>	Oswestry Rural
<b><u>Proposal:</u></b> Non-material amendment to change a number of vehicle access points from Road 2 and 3 to the proposed plots of the Oswestry Innovation Park, relating to Planning Permission 23/04776/REM (amended description)		
<b><u>Site Address:</u></b> Proposed Development Land Off Mile End Roundabout Oswestry Shropshire		
<b><u>Applicant:</u></b> Shropshire Council		
<b><u>Case Officer:</u></b> Ollie Thomas	<b><u>email:</u></b> <a href="mailto:ollie.thomas@shropshire.gov.uk">ollie.thomas@shropshire.gov.uk</a>	

**Grid Ref:** 330960 - 328640



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**Recommendation:- Grant Permission due to the proposed amendment being considered non-material when having regard to the effect of the original permission.**

## REPORT

### 1.0 THE PROPOSAL

- 1.1 This application is seeking permission for a non-material amendment to the previously approved planning application, ref: 23/04776/REM, to amend the approved drawings and plans (Condition 1) to show the removal of vehicle access points from Roads 2 and 3, within the site. The change is being sought as a result of ongoing design review by the applicant, whereby as the end operators are not yet known, the provision of access spurs serving individual plots has been deemed an unnecessary requirement. Instead, once end-users are identified, the access junctions can be submitted for approval based on their specific requirements alongside the detailed matters associated with the operators needs for any new buildings/structures.
- 1.2 It is proposed that 2no. vehicles access points will be removed from Road 2 and 3no. vehicle access points will be removed from Road 3. The removed access points will be replaced by hardstanding to provide continuous footway/cycleway on both sides of Roads 2 and 3.
- 1.3 There have been no previous amendments to the original reserved matters approval, either through s96A (non-material) or s73 (variation) of the Town and Country Planning Act 1990. However, there is a concurrent non-material amendment being sought for the same site and in relation to the original hybrid planning application. Whilst the changes proposed are linked in that they consider the same site and are seeking similar changes, they are not interdependent on one another.

### 2.0 SITE LOCATION/DESCRIPTION

- 2.1 The application site extends to an area of 1.18 hectares and is surrounded largely by open countryside. The surrounding land use is predominantly agricultural to the east and north east, residential to the northwest and commercial to the west due to Maesbury Road Industrial Estate. In addition to agricultural land, the south consists of some commercial use at Mile End Service Area and some recreational use provided by the Mile End Golf Club. The A5 public highway runs parallel to the west of the site and the A483 and Mile End Roundabout forms the main access point for the site.
- 2.2 The planning permission to which this amendment relates has been previously implemented and earthworks have been undertaken which has resulted in a material change in the character and setting of the site and is experiencing

heightened activity through construction operations.

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

- 3.1 This application does not meet the criteria for delegated decisions as set out in the Council's adopted Scheme of Delegation, given the application has been submitted by Shropshire Council to itself which also acts as the Local Planning Authority. The application is therefore presented to Planning Committee for determination.

### **4.0 Community Representations**

- 4.1 As an application to make a non-material amendment is not an application for planning permission, the provisions relating to statutory consultation and publicity do not apply. The Local Planning Authority has discretion in whether and how they choose to inform other interested parties of seek their views.
- 4.2 Whilst the changes being sought are non-material, the LPA has nonetheless sought the views of the Local Highways Authority only. This is in recognition that the proposed changes are in relation to amendments to the internal access arrangements serving individual plots, with no impact on the wider highway network or any other external environmental factors.

### **4.3 Consultee Comment**

### **4.4 SC Highways - No objections**

No objection is raised to the removal of access point currently showing on the current planning consent, acknowledging that these will come forward as part of separate Plot applications where the site layouts and building footprints will determine the precise access locations. The proposals have no material highway impact upon the adjacent Mile End Roundabout.

### **4.5 Public Comments**

- 4.6 As by definition the changes being sought are non-material, the LPA has not carried out any publicity during the determination of this application.

### **5.0 THE MAIN ISSUES**

Whether the proposed amendment is considered 'non-material' to the original grant of permission.

### **6.0 OFFICER APPRAISAL**

### **6.1 Flexibility for planning permissions**

- 6.1.1 When planning permission is granted, development must take place in accordance with the permission and conditions attached to it, and with any associated legal agreements. Notwithstanding, it is accepted that new issues may arise after planning permission has been granted. Where these modifications are less substantial, the planning system has provisions in place to make non-material amendments to the original permission. Such amendments can take the form of revisiting planning conditions imposed on the original permission, imposing new conditions or altering the proposed description.
- 6.1.2 There is no statutory definition of 'non-material', instead it is dependent on the context of the overall scale of development and regard must be had to the effect of the change, together with any previous changes. It can therefore be said that if a change is to be considered as 'material', it must be of significance and conversely for a change to be 'non-material', where there is no resultant harm (in planning terms), this can be considered as lacking in materiality.
- 6.2 Significance and harm**
- 6.2.1 The original hybrid planning permission granted *inter alia* the formation of a 360m spine road; two 3.5m wide foot and cycleways; and, one 2m wide footpath, on land off Mile End Roundabout to support the creation of a new 'Oswestry Innovation Park'. The wider site was allocated for employment use under the adopted Local Plan, with the planning permission granting a range of commercial and employment uses, alongside hotel use and other retail, restaurant, financial and professional services.
- 6.2.2 The application to which this non-material amendment is being sought was the reserved matters approval of a planning permission that was submitted in hybrid. The reserved matters application sought approval for the development of two secondary roads (Roads 2 and 3) off the main spine road and associated works and infrastructure.
- 6.2.3 As mentioned above, the provision of access junctions serving individual plots within the employment site is considered unnecessary at this early stage of the development programme, where end-users are not yet identified. Whereby should the access spurs be installed as previously approved, this would likely result in deterring potential operators due to unacceptable access arrangements specific to their needs, and/or require amended plans to be submitted at a later date. The proposed changes are therefore ensuring the greatest flexibility in attracting local, regional and national operators to the site.
- 6.2.4 As confirmed by the Local Highways Authority, the proposed changes raise no material impact on the local highway network or upon the adjacent Mile End Roundabout. This is on the basis, that the installation of the access junctions as previously approved would not result in any vehicle movements, as the site would not become operational until such time detailed matters are provided for the



individual plots.

### **6.3 The effect of the change on the original permission, as granted**

6.3.1 In determining the above judgement that the proposed change is neither of any significance or harm, when considered against the original planning permission. The application is therefore recommended for approval.

## **7.0 CONCLUSION**

7.1 The proposed amendments to the previously approved plans and drawings, to show the removal of individual access points, are considered non-material when having regard to the effect of the change proposed on the planning permission as previously granted.

7.2 It is Officer's recommendation that permission be **GRANTED**.

7.3 It is Officer's view that in granting this application, no new conditions need imposing, or the deletion of existing conditions attached to the original permission.

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

### **8.1 Risk Management**

The principal risk associated with this recommendation is as follows:

- 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.

This risk need to be balanced against the risk of not proceeding to determine the application.

### **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 HISTORY:

**20/03871/SCR** Proposed Innovation Park on land to the East of Oswestry SCO 8th January 2021

**20/04574/SCO** Scoping Opinion for the proposed development at Oswestry Innovation Park SCO 8th January 2021

**21/01334/EIA** Hybrid Planning Application for:

Full planning permission - formation of a 360m spine road; two 3.5m wide foot and cycleways; one 2m wide footpath; one electricity substation; supporting utilities infrastructure; drainage system; landscaping and ancillary works;

Outline planning permission - 10 plots to be delivered in four phases, providing:

- a hotel (use class C1) up to 30,000sq. ft;
- three units providing up to 6,000sq. ft of hospitality and up to 3000sq. ft of services;
- five mixed use units providing general industry with ancillary office (B2 & E) providing up to 180,000sq. ft;
- one office unit (use class E) providing up to 15,000sq. ft;

## AGENDA ITEM

**Northern Planning Committee - 21st January 2025**

Proposed Development Land  
Off Mile End Roundabout

- one light industrial unit (use class E) providing up to 63,000sq. ft;
- two mixed use units providing storage/distribution with ancillary office (B8 & E) providing up to 200,000sq. ft;
- the provision of green infrastructure and all ancillary works. GRANT 13th July 2021

### **11. Additional Information**

View details online: <http://pa.shropshire.gov.uk/online-applications/applicationDetails.do?activeTab=summary&keyVal=SO367OTDM5800>

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 Joyce Barrow
Appendices - N/A

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Committee and date

**Northern Planning Committee**

**21<sup>st</sup> January 2025**

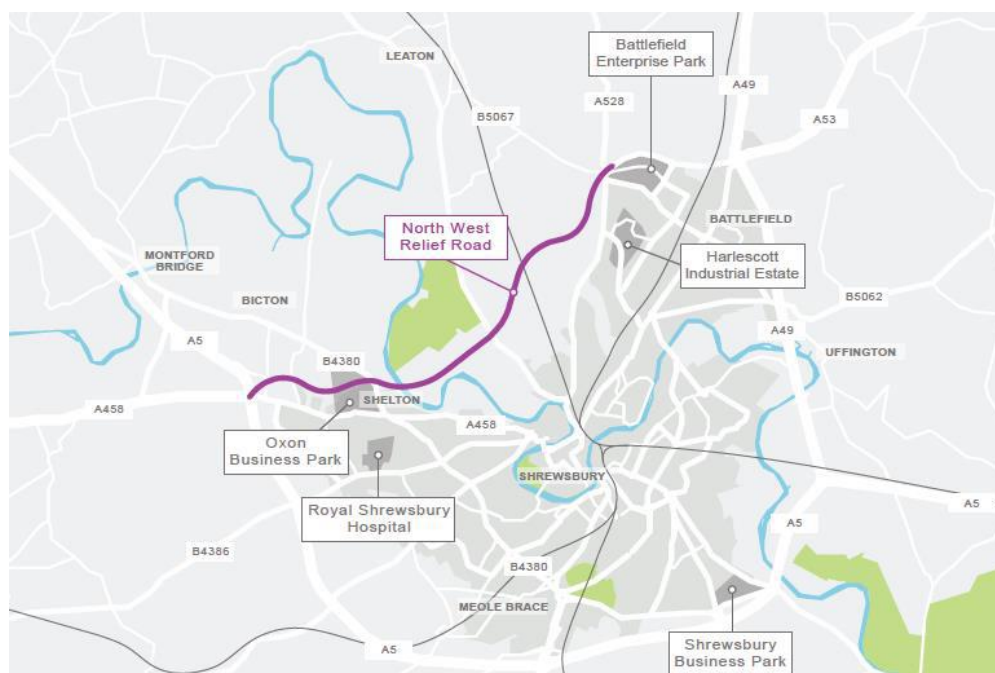
## Development Management Report

Responsible Officer: Rachel Robinson, Executive Director of Health Wellbeing and Prevention

### Summary of Application

<b><u>Application Number:</u></b> 21/00924/EIA	<b><u>Parish:</u></b>	Bomere Heath Bicton Shrewsbury Town
<b><u>Proposal:</u></b> North West Relief Road scheme. comprising - construction of 6.9km single carriageway (7.3m wide) road; severance of local roads and footpaths; provision of combined footway/cycleway; erection of three bridged structures over carriageway; diversion of existing bridleway/footpath via an underpass; 670m long viaduct; bridge over railway; two flood storage areas; provision of two new roundabout junctions and improvements to two existing roundabouts; associated traffic calming measures, landscaping and drainage schemes (Amended)		
<b><u>Site Address:</u></b> Street Record Welshpool Road Bicton Heath Shrewsbury Shropshire		
<b><u>Applicant:</u></b> Shropshire Council (Highways And Transportation)		
<b><u>Case Officer:</u></b> Mike Davies	<b><u>email:</u></b> mike.davies.planning@shropshire.gov.uk	

**Grid Ref:** 344830 - 313501



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**Recommendation: - Delegate Authority to the Planning and Development Services Manager to grant planning permission** subject to amended wording of condition 41 and the final wording of conditions 8, 30, 44 and 58 and subject to signed S106 obligations from the relevant landowners to deliver off site mitigation and the compensation strategy as laid out in the report below and appendices.

Delegated authority is sought to the Planning and Development Services Manager due to the departure of the Assistant Director to whom the previous delegation applied.

## REPORT

1.0	THE PROPOSAL
1.1	<p><i>"The Proposed Scheme comprises a new 7.3m wide single carriageway all-purpose 6.9km long road with a permitted speed of 60mph, along with associated landscaping and drainage. As a result of the severance of a number of local roads, footpaths and public rights of way (PRoW), a combined footway and cycleway would be provided, adjacent to the carriageway, with linkages to existing non-motorised user routes. The Proposed Scheme includes three new structures over the carriageway. Clayton Way would be diverted over a new bridge and would be designed to accommodate vehicles and all non-motorised users and the existing PRoWs in proximity to Shepherd's Lane and Marches Way, would be diverted onto new bridges. In addition, at the B4380 Holyhead Road Roundabout the existing bridleway and footpath would be diverted underneath the Proposed Scheme via an underpass.</i></p>

	<p><i>A carriageway would cross the River Severn and floodplain on an approximately 670m long viaduct. A second bridge crosses the Shrewsbury to Chester railway. Two flood storage areas would be provided to compensate for the loss of flood storage.</i></p> <p><i>The Proposed Scheme includes two new roundabout junctions (one at the B4380 Holyhead Road and the other at the B5067 Berwick Road) and the improvement of two existing roundabouts (the A5 Churncote Roundabout and the A528 Ellesmere Road Roundabout). Traffic calming measures would be installed along Welshpool Road”.</i></p>
1.2	<p>The Proposed Scheme design remains largely the same as the one presented in the <b>Feb 2021 Environmental Statement Non-Technical Summary</b>. The design changes since the original submission in February 2021 are mainly limited to the area between Holyhead Road and east of the Viaduct. The changes include the removal of the climbing lane from the viaduct and the inclusion of an extended earthwork embankment into the floodplain, enabling a shorter viaduct (580m rather than 670m). The area that would store water in the event that the River Severn floods (called a flood storage area), which is located east of the River Severn, has been increased due to the additional bridge structures within the floodplain. The Application Boundary has been extended as a result of the increase flood storage area and to accommodate new access routes and additional planting to support wildlife. The viaduct sides or parapets have been changed from concrete to steel and the height has reduced slightly on the north side. There have been no further changes since the committee last considered the imposition of conditions in February 2024.</p>
1.3	<p>This planning application was submitted to the Local Planning Authority on 22nd February 2021. It was first considered by the North Planning Committee at their meeting on 31st October 2023, when it resolved to grant planning permission subject to the agreement of appropriate planning conditions. A further report was considered by the North Planning Committee on 15th February 2024 to agree the planning conditions to be attached to any planning permission granted subject to the completion of three S106 agreements between the Council and landowners relating to mitigation measures.</p>
<b>2.0</b>	<b>SITE LOCATION/DESCRIPTION</b>
2.1	<p>The north-west hinterland sector of Shrewsbury is generally undeveloped and comprises mainly agricultural land. Settlement is sparse, with small, isolated farmsteads and properties scattered through the landscape. The River Severn meanders through this area, with wooded valley slopes and extensive floodplains. The area is crossed by the Shrewsbury to Chester railway line in addition to footpaths and other PROW. The Site extends between National Grid Reference (NGR) SJ 44370 13510 in the west to SJ 49942 16943 in the northeast and envelops an area of approximately 120ha.</p>
2.2	<p>The proposed scheme comprises land, which is predominantly rural in character,</p>

	with agriculture being the main use. Generally speaking, land to the south is dominated by residential properties forming the outskirts of Shrewsbury whilst land to the north is rural in character. The communities of Calcott, Bicton, Bicton Heath, Bowbrook, Shelton, Rosehill, Gravel Hill, Coton Hill, Mount Pleasant and Battlefield are all in the proximity of the Site.
2.3	The local highway network within and adjacent to the Site includes, but is not limited to, the A458 Welshpool Road, A5 Shrewsbury Southern Bypass, A528 Ellesmere Road, A5124 Battlefield Link Road, B4380 Holyhead Road, B5067 Berwick Road, Calcott Lane, Shepherd's Lane, Shelton Lane, Gravel Hill Lane, Hencote Lane, Huffley Lane and Gravel Hill Lane.
<b>3.0</b>	<b>REASON FOR COMMITTEE/DELEGATED DETERMINATION OF APPLICATION</b>
3.1	As set out above this application has previously been considered twice before by the Northern Planning Committee. At the present time planning permission is still to be issued as the S106 agreements between the Council and three landowners in relation to the off-site mitigation measures have still to be concluded. In the intervening period a change in circumstances in relation to the carbon assessment previously provided by the applicant, has occurred and therefore it is considered necessary to report this matter back to Committee for consideration. A new carbon assessment was undertaken using the DfT formula which resulted in an increase in Greenhouse Gas emissions over that previously reported to the committee.
<b>4.0</b>	<p><b>Community Representations</b></p> <p>Comments received from the consultees and public both for and against the development have previously been considered by Planning Committee when they originally resolved to grant planning permission subject to conditions and S106 agreements being completed at their meeting on 31st October 2023. Those comments were contained in the reports and late representations before committee on 31 October 2023 and 15 February 2024.</p> <p>The only change that is being reported back to committee is the calculation in the total carbon emissions, the assessment/consideration of offsetting measures and the timetable for the carbon offset measures.</p> <p>In the interests of transparency, a further round of consultation has been undertaken on the basis of a change to the environmental statement, and views invited through a press notice and the erection of site notices</p> <p>The consultation responses below are those submitted as a result of this latest round of consultation.</p>
<b>4.1</b>	<b>Public Comments</b>
4.1.1	<ul style="list-style-type: none"> <li>Concerns over the waste of public money and time on the North West Relief</li> </ul>



Road (NWRR).

- Arguments for more cost-effective and environmentally friendly alternatives like bicycling and walking.
- Criticism of the project's carbon emissions, which have tripled compared to initial estimates.
- Lack of a plan to mitigate these emissions, challenging Shropshire Council's commitment to carbon neutrality by 2030.
- Suggestion for alternative traffic management measures using signage and ANPR cameras to monitor and charge through traffic.
- Support for measures to alleviate traffic in certain areas but concerns over the road's proximity to existing and new houses, and its rising costs.
- Call for a credible, costed plan from Shropshire Council to offset the road's emissions in line with its commitment to net zero by 2030.
- Comments on the validity of the street record for the project, noting errors in the planning application paperwork.
- Support for relieving traffic pressure on Dobbies island and the town centre, suggesting the bypass proposal be included on the 2025 local elections ballot paper.
- Suggestions for cost-effective traffic management measures, including ANPR cameras and a penalty system for through traffic.
- Concerns over increased costs and carbon output reassessment, questioning the Council's financial strategy for the project.
- Objections to the revised carbon assessment, noting that lifetime emissions have nearly quadrupled since the scheme's approval in October 2023.
- Call for Shropshire Council to use the latest emissions forecasting methodology and present a credible plan for offsetting emissions.

#### Main Points of Support and Objections

##### Supporting Points

- Relieving traffic pressure on Dobbie's island and the town centre.
- Suggestion to include the bypass proposal on the 2025 local elections ballot paper to gather residents' opinions.
- Proposing cost-effective traffic management measures such as ANPR cameras and a penalty system for through traffic.

##### Objections

- Lack of a plan to mitigate emissions, challenging Shropshire Council's commitment to carbon neutrality by 2030.
- Concerns over the road's proximity to existing and new houses and its rising

	<p>costs.</p> <ul style="list-style-type: none"> <li>• Errors in the street record noted in the planning application paperwork.</li> <li>• Increased costs and carbon output reassessment questioning the Council's financial strategy for the project.</li> <li>• Objections to the revised carbon assessment, noting that lifetime emissions have nearly quadrupled since the scheme's approval in October 2023.</li> <li>• Call for Shropshire Council to use the latest emissions forecasting methodology and present a credible plan for offsetting emissions.</li> <li>• Criticism of the new carbon figures for the North West Road and the lack of a mitigation plan.</li> <li>• Concerns over the project's environmental and financial impacts, urging the Council to refuse the application at the earliest opportunity.</li> </ul>
4.1.2	<p><b>Better Transport for Shrewsbury</b></p> <ul style="list-style-type: none"> <li>• The lifetime greenhouse gas emissions from the combined road project (i.e. including OLR) are now assessed by the Applicant to have nearly tripled compared to the equivalent number considered by the Northern Planning Committee (NPC) when it approved the application in October 2023 (see more detail on why we believe that this is an underestimate in Section 4).</li> <li>• The new assessments show that, far from reducing carbon emissions from road users in Shrewsbury (as has been consistently claimed by the Applicant since the 2017 Outline Business Case, 2020 Public Consultation and 2022 EIA Scoping report), building the new road means there will be an increase in these emissions, and this will continue into the foreseeable future. This means that impacts on the climate from the road are predicted to occur beyond 2050. This is inconsistent with the UK's plans to achieve net zero by 2050 and Shropshire Council's plans to be net zero by 2030.</li> <li>• The Applicant still has no properly quantified or costed plans to mitigate these significant emissions. This is inconsistent with the current requirements of condition 41.</li> <li>• Instead, of tackling this problem, which the Applicant acknowledges is now "more challenging", it is proposing to revise condition 41 and suggests (in text that is not included in the revised condition 41) that it will submit plans by 2030 (i.e. after the project is completed) to show how neutrality by 2050 will be achieved. The important questions of how this would be enforced or what would happen if there were no affordable solutions are unanswered. This approach is contrary to both the current condition 41 and the proposed revisions.</li> <li>• The Applicant identifies emissions of 55,904 tCO<sub>2</sub>e to 2050 as requiring mitigation. However, it is the lifetime emissions that require mitigation and previously a lifetime total of 27,500 tCO<sub>2</sub>e was presented to the NPC when</li> </ul>

deciding the application. It is hard to identify an entirely equivalent figure in any of the reports but WSP, 2024d says “the latest carbon assessment estimates that over the 60-year appraisal period, the Proposed Scheme (NWRR only) will have an overall impact of +94,457 tCO<sub>2</sub>e” (i.e. 3.5 times higher). Elsewhere, the emissions from the Oxon Link Road are considered to be about a 15-30% of those of the rest of the scheme which implies total emissions of around 110-120,000 tCO<sub>2</sub>e by this measure.

- The points above are all based on the figures presented by the Applicant. In fact, our detailed review of the reports shows that the Applicant has picked and chosen figures to suit its purpose. For instance, user emissions considered for mitigation are reduced by 90% from 53,235 tCO<sub>2</sub>e in WSP, 2024e (whole life) to 5,386 tCO<sub>2</sub>e (by 2050) by reducing the period over which they are considered, reverting to the previous assessment methodology (which yields emissions 80% lower) and some wishful thinking about 100% uptake of Electric Vehicles.

- In our analysis in Section 4 we show that a more consistent treatment of the Applicant's figures implies that the whole life emissions would in fact be 101,257 tCO<sub>2</sub>e, almost double what is proposed to be mitigated by the Applicant.

- The Applicant continues to claim that Shropshire Council will ‘own’ these emissions without explaining what this actually means. For context, Shropshire Council's plans to achieve net zero by 2030 are not on track (Shropshire Council, 2024) and the initial work on the Local Transport Plan 4 shows that ‘without significant intervention’, transport in Shropshire is not set to reach net zero by 2050. This is also the picture for transport nationally. How the council can take on board these additional emissions when it is already off track in its plans to reach net zero is unclear and apparently only to be revealed by 2030.

- The Applicant now proposes that Shropshire Council should set aside £8.4M to compensate for these emissions (i.e. £150/t CO<sub>2</sub>e). This is three times the implied rate of £50/t CO<sub>2</sub>e presented to the NPC when it approved the application (£1.4M for 27,500 t CO<sub>2</sub>e) and calls into question whether the Officer's Report for that meeting was correct in concluding that this issue “has been satisfactorily addressed by the applicant”. There also does not seem to be a robust mechanism in place to ensure that this funding will be delivered again calling into question how this will be enforced.

- Combining this rate with the more robust figure for emissions that we have developed would imply that the funds required for mitigation should increase to around £15.3M.

- It is apparent that these reports have been prepared in haste as there are many small errors and inconsistencies between the various reports which should have been cleared up if there had been enough time for thorough report review. Given the significance of the results it is concerning that these have been rushed to meet politically driven deadlines.

	<ul style="list-style-type: none"> <li>The Applicant has subsequently submitted responses to a number of challenging questions raised by the LPA. We have reviewed these responses and concluded that in most cases they have failed to address the concerns raised.</li> </ul>
<b>5.0</b>	<b>THE MAIN ISSUES</b>
	Principle of development Background Current Position Mitigating and Offsetting the Impact Case Law Alterations to other conditions
<b>6.0</b>	<b>OFFICER APPRAISAL</b>
6.1	Principle of development
6.1.1	On 31 October 2023 Shropshire Council's Northern Planning Committee resolved that planning permission for NWRR should be approved in accordance with Officer recommendation, subject to additional conditions and the final wording of conditions being brought to a future meeting of the Committee for approval and signed Section 106 agreements between the Council and landowners effected by mitigation and compensation strategy proposals.
6.1.2	On 15 February 2024 Shropshire Council's Northern Planning Committee resolved that additional planning conditions and amended conditions circulated at the meeting be agreed, subject to minor amendments being delegated to the Assistant Director of Economy and Place. The Committee agreed that these conditions will be attached to any subsequent decision issued by the Local Planning Authority (LPA), following the completion of the Section 106 agreements.
6.1.3	The application is being referred back to the Northern Planning Committee again in order for the Committee to consider an updated greenhouse gas (GHG; hereafter referred to as carbon) assessment prepared for NWRR in November 2024. While it is not expected that applicants should re-assess carbon impact subsequent to planning approval, the applicant has separately developed an assessment as part of the development of a Full Business Case (FBC) to be submitted to the Department for Transport (DfT) in order to secure funding. For the purposes of transparency and to ensure management of the scheme's impact responds to the latest understanding of the likely impact an updated assessment of the scheme as submitted for planning has therefore been prepared in line with latest methodologies applied in the business case.
6.1.4	Whilst the principle of the development has previously been accepted by the Northern Planning Committee in resolving to grant planning permission subject to the completion of the S106 agreements, it is considered that the recent carbon assessment undertaken amounts to a material change which requires consideration by the committee given that their previous decision was based on lower figures presented to them at the time. Again, it is worthy of note that there is no change to the development in itself.

6.1.5	<p>A revised NPPF was published by the Government in December 2024, and this is therefore a material change in planning circumstances which the committee needs to have regard to.</p> <p>There are changes to section 14 of the NPPF which sets out national planning policy in relation to 'Meeting the challenge of climate change, flooding and coastal change.'</p>
6.1.6	<p>Para 161 now states "The planning system should support the transition to net zero by 2050 and take full account of all climate impacts."</p> <p>Para 163 further highlights 'The need to mitigate and adapt to climate change should also be considered in preparing and assessing planning applications, taking into account the full range of potential climate change impacts.'</p>
6.2	Background
6.2.1	A carbon assessment was prepared in February 2021 as part of the Environmental Statement (ES) that was submitted with the planning application. Table 1 below at para 6.3.5 details the changes in the calculations for Greenhouse Gas emissions.
6.2.2	In response to design changes a reassessment of the construction phase emissions and operational resurfacing emissions was prepared as part of an Addendum to the ES in August 2021. As a result of design changes (e.g. simplification of the River Severn viaduct) and associated reductions in the construction impact (+48,233 tCO <sub>2</sub> e) and operational resurfacing (+3,024 tCO <sub>2</sub> e) the estimated net impact reduced to +26,711 tCO <sub>2</sub> e over 60 years. This assessment was independently verified by the University of Birmingham and reported in the Climate chapter of the ES as a significant adverse effect during the construction phase of the scheme and a negligible impact during operation.
6.2.3	In recognition of Shropshire Council's declaration of a climate emergency, the Council committed to owning the carbon from the scheme and including this within its commitment as an authority to be carbon net-zero by 2030. As part of this pledge, £1.4m was allocated to offset the carbon footprint of the scheme. This was calculated on the basis of the estimated cost of carbon credits equivalent to the reported impact in the August 2021 assessment (+26,711 tCO <sub>2</sub> e over 60 years). It was noted the funding would however, as a priority, be used to fund projects in the county.
6.2.4	Shropshire Council's Northern Planning Committee resolved to approve the planning application, subject to conditions. This included Planning Condition 41 which pertains to carbon: <i>"No development shall commence until the Carbon Assessment Plan has been submitted for approval to the Local Planning Authority. The Carbon Assessment Plan shall include in its scope, the built design, construction phase impacts and future use scenarios for the project, how the project will demonstrate achievement of a net-zero carbon outcome, and location of carbon offsetting or removal activity within Shropshire or neighbouring local authority area. Particular attention should be paid to minimising the release of carbon embodied in</i>

	<i>the vegetation cleared from the route. Development shall not commence until the Carbon assessment plan has been approved in writing by the Local Planning Authority. The development shall be carried out in accordance with the approved Carbon Assessment Plan."</i>
6.3	The Current Position
6.3.1	A Full Business Case (FBC) is being prepared for submission to the DfT to secure funding for the NWRR project by the applicant. As part of transport business case submissions, the DfT requires an assessment of GHGs in line with guidance and advice issued by them. In January 2024 they also issued to promoters of local authority major schemes an advice note on operational user emission assessment. This was provided to improve the consideration of road user carbon within business cases submitted to the DfT.
6.3.2	These guidance and advice notes have been followed as part of the carbon assessment for the FBC by the applicant. Since the last assessment undertaken by the applicant in 2021 updates have also been made to traffic modelling and estimated material quantities, which have been used in this latest assessment. Methodologies for estimating operational infrastructure carbon impacts (e.g. repair, energy use) and land use changes have also improved since the 2021 assessments so were included in this latest assessment in order to provide as complete an estimate of carbon impacts as possible.
6.3.4	While Planning Condition 41 did not require an updated carbon assessment, in recognition that data and methodologies have evolved and to be as transparent as possible the applicant has – alongside the assessment prepared for purposes of the FBC (NWRR only) – prepared an updated assessment of the scheme as submitted for planning (NWRR & OLR). As with the FBC assessment, this uses the most recent data and methodologies. This latest assessment was prepared in November 2024 on completion of updates to the traffic modelling scenario accounting for both NWRR & OLR and has been used for the Carbon Assessment Plan required via Planning Condition 41. For clarity the application is for both elements namely the NWRR and OLR the distinction between them relates purely to how they are being funded as the NWRR element is receiving funding from the DfT whilst the OLR element is not.
6.3.5	The updated carbon assessment prepared in November 2024 estimates a larger carbon impact than that reported in the ES prepared in 2021. A summary of how this latest assessment compares to those prepared previously is presented in the Table below.
	<b>Table 1 Summary of carbon assessments of NWRR &amp; OLR (using worst-case assumptions)</b>


**Table 1 Summary of carbon assessments of NWRR & OLR (using worst-case assumptions)**

	February 2021 Assessment (ES)	August 2021 Assessment (Addendum to the ES)	November 2024 Assessment (updated assessment prepared alongside the FBC)
Estimated net impact over 62 years (including construction)	49,066 tCO <sub>2</sub> e	26,711 tCO <sub>2</sub> e	76,761 tCO <sub>2</sub> e
Sources of carbon impact	Construction: +70,452 tCO <sub>2</sub> e  Operational (resurfacing): +3,159 tCO <sub>2</sub> e  Operational user emission impact: -24,545 tCO <sub>2</sub> e	Construction: +48,233 tCO <sub>2</sub> e  Operational (resurfacing): +3,024 tCO <sub>2</sub> e  Operational user emission impact: -24,545 tCO <sub>2</sub> e	Construction: +42,045 tCO <sub>2</sub> e  Operational (repair & replacement): +8,586 tCO <sub>2</sub> e  Land use change: +2,888 tCO <sub>2</sub> e  Operational energy use: +30 tCO <sub>2</sub> e  Operational user emission impact: +23,212 tCO <sub>2</sub> e
Changes in methodology from previous assessment	N/A	<ul style="list-style-type: none"> <li>No changes in methodology.</li> <li>Updated construction &amp; operational resurfacing estimates to reflect revised design.</li> </ul>	<ul style="list-style-type: none"> <li>Scope of assessment expanded to include land use change impacts and operational energy use.</li> <li>Scope of 'operational (resurfacing)' has been expanded to include broader repair and replacement.</li> <li>The study area for the user emission assessment was reduced down (from the full extent of the traffic model) to the Rest of the Fully Modelled Area in line with DfT's user emission advice note issued in January 2024 (see paragraph 3.1.2) i.e. a study area covering all likely impacts of the scheme but excluding periphery links where there is low confidence modelled changes in flows or speeds are a result of the scheme.</li> </ul>

6.3.6 The estimated impact of the NWRR has increased from the August 2021 ES assessment due to evolving methodologies for calculating carbon along with differing requirements for planning and the DfT funding regime. The assessment undertaken in August 2021 followed best practice guidance at the time, changes in

	methodologies, tools and guidance from the DfT has led to the methodological changes summarised in the table above.
6.3.7	The now-estimated increase in the scheme's impact is unlikely to materially affect the Government's ability to meet carbon budgets. It equates to 0.0027% of the national Carbon Budget 4, 0.0001% of Carbon Budget 5 and 0.0002% of Carbon Budget 6. The annual user emission impact is, at most (in 2032), only an 0.074% increase in total surface transport emissions in Shropshire from 2021 levels (715,900 tCO <sub>2</sub> e) (latest Government data available).
6.3.8	The Climate chapter of the ES submitted in support of the planning application in August 2021 reported a "significant moderate adverse" effect from emissions associated with the construction phase of the scheme. Given the scale of construction impact remains similar, the applicant considers this to remain the same.
6.3.9	Based on the updated assessment of operational emissions associated with user emissions and operational repair and replacement, the carbon impact during the operational stage is considered to change from a slight beneficial (not significant) effect to a minor adverse effect that remains not significant when considered against the methodology for determining significance set out in the ES and with due regard to the latest EIA guidance on assessment of GHGs. Reasons for this include that this user emission impact will not materially affect the ability of the Government to achieve a trajectory in line with Net Zero by 2050 as it is insignificant on a national level. It also needs to be remembered that at a national level measures are in place that will mitigate such emissions going forward. This includes the now legislated Zero Emission Vehicle (ZEV) mandate which could significantly reduce the estimated increase in user emissions.
6.3.10	<p>It should be noted that the impact reported in the Table above is a worst-case scenario in the applicant's view. The rationale for this view is based on the following reasons:</p> <ul style="list-style-type: none"> <li>• It does not account for remaining opportunities to reduce carbon through construction – a target has been set to reduce construction emissions of the NWRR component by 30% relative to the February 2021 assessment. A 26% reduction has been achieved so far. Carbon has been a key consideration in procurement of a contractor; a process that has identified carbon management opportunities that provide confidence a target of at least a 30% reduction can be achieved.</li> <li>• DfT assumptions on future composition of the vehicle fleet (i.e. ZEV uptake) used in the user emission assessment have not yet been updated to account for the now legislated ZEV Mandate. This places the requirement on vehicle manufacturers for 80% of new cars and 70% of new vans sold in Great Britain to be zero emission by 2030. The Labour Government has also pledged to reintroduce the 2030 ban on sales of new petrol and diesel cars with all new vehicles needing to be 100% zero emissions by 2035. This means the user</li> </ul>



	<p>emission assessment, based on an assumption only 67% of cars in 2050 will be electric, can reasonably be considered an over-estimate of the scheme's impact. If a scenario of higher ZEV uptake is applied, such as the assumptions provided in decarbonisation scenarios of DfT's Common Analytical Scenarios the user emission impact reduces from +23,212 tCO<sub>2</sub>e to approximately +6,532 tCO<sub>2</sub>e over 60 years.</p> <ul style="list-style-type: none"> <li>Carbon factors used in the estimates of construction and operational repair and replacement emissions are based on current carbon intensities associated with material manufacture, transportation, electricity consumption etc. Given the Government's commitment to Net Zero by 2050 it is reasonable to expect that the estimated carbon impact of operational repair and replacement emissions is an overestimate.</li> <li>It reports the impact over 62 years (assumed 2025-2027 construction period + 2027-2086 operational period). 19% (14,900 tCO<sub>2</sub>e) of the scheme's net impact as reported in Table 1 occurs after 2050, when the UK has committed to achieving Net Zero by 2050. Further to the points made above on likely decarbonisation of ZEVs and operational repair and replacement, there is significant uncertainty in any estimation of carbon impacts beyond 2050.</li> </ul>
6.3.11	For these reasons, an alternative assessment has been prepared using a DfT scenario of accelerated ZEV uptake and an assumption that the scheme's target for reducing construction emissions is met. This is a residual net whole-life carbon impact of +59,550 tCO <sub>2</sub> e over 60 years or +55,904 tCO <sub>2</sub> e up to 2050.
6.4	Mitigating and Offsetting the Impact
6.4.1	The applicant has reiterated their commitment to offset the impact of the scheme and has increased the allocation in the project budget for carbon offsetting from £1.4m to £8.4m to reflect this latest estimate of the scheme's impact. In response to requirements of Planning Condition 41 a process to achieve carbon neutrality has been drafted by the applicant which identifies initial measures that will be considered to deliver this outcome.
6.4.2	The use of and support to the Council's investment in a specialist pyrolysis company is a key component of the carbon offsetting strategy. Carbon from vegetation/biomass will be removed during construction with it being captured and stored as biochar. This along with other measures will be further developed by the applicant through an ongoing process to be agreed via the discharge of the suggested amendment to Planning Condition 41. This will be supported by ongoing monitoring and reporting of the scheme's impact by the applicant. In line with best practice, the Council will also prioritise measures locally in the first instance with a hierarchical approach to offsetting of local, regional, national and international to ensure the local economy realises the benefits of the proposals as much as reasonably possible.
6.4.3	The applicant acknowledges that the estimated increase in the scheme's carbon

	<p>impact makes offsetting the impact by 2030 unachievable. Irrespective of the increased impact, carbon neutrality by 2030 has also been made more challenging to deliver on account of delays to the project's programme (now not expected to be operational until 2027) and higher costs of carbon offsetting measures. The applicant has indicated they will by 2030 identify measures that can demonstrably offset the scheme's impact and will strive to deliver as many of these measures prior to 2030 as possible, although it acknowledges that it will not meet the net zero target by this date.</p>
6.4.4	<p>It should be noted that the carbon assessments prepared by the applicant consider the impact of the scheme in isolation; they do not account for benefits that are provided in the context of the Council's wider strategy for reducing emissions from the transport network. For example, the scheme will be a key enabler to provision of active and shared transport improvements and a reduction in traffic levels within Shrewsbury town centre. This strategy will be set out in the emerging Local Transport Plan (LTP) which will include a process of carbon analysis to support decision-making.</p>
6.4.5	<p>However, for the reasons set out in the paragraph above, the full residual impact of the scheme as assessed will not have been offset by 2030. For example, the actual 'removal' of carbon associated with measures such as tree planting or biochar will take several years to realise.</p>
6.4.6	<p>Previously, the condition required local offsetting, and this is still the preferred method as offsetting further afield is far less certain. The applicant has committed to a hierarchy of offsetting with local and regional solutions being the preferred options.</p>
6.4.7	<p>The longer timeframe is not in accordance with the Council's declared Climate Emergency and its stated aim of being Carbon Neutral by 2030. Whilst this isn't adopted planning policy it is a material consideration for members to take into account when deciding on the acceptability of the changes proposed.</p>
6.4.8	<p>Having regard to the above it is proposed that Planning Condition 41 be amended to allow the Council until 2050 to achieve carbon neutrality of the scheme's impact. A proposed revised wording to this Condition for consideration by the committee is as follows:</p> <p><i>"No development shall commence until the Carbon Assessment Plan has been submitted for approval to the Local Planning Authority. The Carbon Assessment Plan shall include in its scope the built design, construction phase impacts and future use scenarios for the project and how the scheme's residual impact will be offset by 2050 through a hierarchy of measures that prioritises delivery of measures locally in Shropshire. Particular attention should also be paid to minimising the release of carbon embodied in the vegetation cleared from the route. Development shall not commence until the Carbon assessment plan has been approved in writing by the Local Planning Authority. The development shall be carried out in accordance with the approved Carbon Assessment Plan."</i></p>

6.5	Case Law
6.5.1	<p>The correct approach to carbon emissions was considered in <i>R on the Application of Boswell v Secretary of State for Transport 2023</i> where the High Court upheld development consents granted for three road schemes in Norfolk, all within 20 kilometres of Norwich and designated as nationally important infrastructure projects. The transport secretary assessed the vehicular carbon emissions expected to be generated by each of them but did not measure the significance of the combined carbon emissions from all three schemes combined, together with other existing and/or approved projects in the local area, against the UK's national carbon budgets. Ruling on a challenge to this approach, Mrs Justice Thornton noted that the IEMA guidance expressly warns against the approach proposed by Dr Boswell, precisely because <i>"effects of [greenhouse gas] emission from specific cumulative projects ... in general should not be individually assessed as there is no basis for selecting any particular ... cumulative project that has [greenhouse gas] emission for assessment over any other"</i>. She ruled that there was a "logical coherence" to the transport secretary's approach and that he lawfully exercised his judgment. The transport secretary had acknowledged that each scheme would lead to an increase in carbon emissions. However, he concluded that, when compared with national carbon targets spanning 2023-2037, the increase in emissions from each scheme was "not significant". He found that each scheme was compatible with the UK's trajectory towards net zero carbon emissions by 2050. Dismissing the challenge to the decision, the judge ruled that the assessment of cumulative impacts were matters of "evaluative judgment" for the transport secretary. The Court of Appeal upheld the High Court's decision, Sir Launcelot Henderson commenting that there <i>"is in my judgment an air of complete unreality to the complaint that the secretary of state was somehow at fault in not having conducted a separate and wider assessment of cumulative emissions from each scheme (as disclosed in the data and tables contained in the environmental statements), in addition to the [individual assessments]"</i>. He went on to comment that <i>"on a fair reading of the decision letters, it seems to me that [the minister] provided adequate reasons for not embarking on a separate cumulative assessment which would inevitably have lacked a logical basis and could not have provided further information of any value. In the current state of scientific knowledge, as reflected in the IEMA guidance, this was in my judgment a rational position for the secretary of state to adopt and, in my view, it betrays no error of law."</i></p>
6.5.2	<p>The <i>Boswell</i> case was considered by the Secretary of State in granting development consent for the widening of the A12 in Essex together with other highway improvements. The examining authority considered a wide range of environmental, social and economic matters raised by the scheme and agreed that it would deliver improvements to the strategic road network in the context of the projected national growth in traffic levels, would support economic growth, improve journey times, reduce congestion and improve highway safety. The secretary of state agreed that these were significant benefits which had to be weighed against a range of impacts, with a further consideration relating to the UK's legally binding commitment under the Climate Change Act 2008 towards net zero carbon emissions by 2050. The secretary of state noted criticisms of the applicant's</p>

	<p>environmental impact assessment, that claimed it did not adequately account for cumulative carbon emissions. The applicant responded that this criticism was founded on a misreading of the EIA regulations which only required an assessment of effects of the proposed development itself in combination with other existing and/or approved projects. This approach was consistent with the judgment in <i>Boswell v Secretary of State for Transport [2023]</i>. The secretary of state opined that there was no single prescribed approach to assessing the cumulative impacts of carbon emissions and consequently there may be a number of ways such an assessment could be undertaken. He accepted the approach adopted by the applicant, determining that for the impact and effect of carbon emissions on climate change, unlike other environmental topics, there was a single receptor which was the global atmosphere. As a consequence, the secretary of state held that assessing the impact of projects such as the one before him, in combination with other local or national schemes in terms of the UK's net zero commitment, would be arbitrary. This was because the nature of carbon emissions meant that their impact was not local, or sector specific. While the scheme would give rise to a net increase in greenhouse gas emissions, the secretary of state concluded that this would not materially impact on the government's overall Net Zero Strategy and Transport Decarbonisation Plan to deliver upon the 2050 target. Nor did the government's announcement to postpone the introduction of all electric vehicle sales from 2030 to 2035 alter this conclusion. Secretary of State 12/01/2024.</p>
6.5.3	<p>The same issue arose in Secretary of State 17/02/2023 where the secretary of state for transport issued a development consent order for a proposal to upgrade the A47 west of Peterborough judging that the benefits outweighed the harm caused by the project. He noted that the government's Transport Decarbonisation Plan included a range of actions which would help in reducing carbon emissions over the transport network as a whole, including policies to decarbonise vehicles and radically reduce vehicle emissions. This approach would assist in ensuring that carbon reduction commitments were met. He also considered the applicant's argument, relying on the decision in High Court judgment <i>Transport Action Network Ltd v Secretary of State for Transport and Highways England [2021]</i>, that the Climate Change Act 2008 did not impose a legal duty to set carbon budgets on a smaller than national scale, and so there was therefore no legal requirement to assess the impact of the proposed development against the total carbon emissions for the country as a whole, as reasonable and proportionate. In his view, a local or regional approach to assessing cumulative effects carried a risk of being arbitrary and uncertain because the effects of carbon emissions were not limited to one geographical area. He also noted that, when set against the total carbon emissions, the impact of the proposal was very small.</p>
6.5.4	<p>From the above it is clear that greenhouse gases need to be considered on a national scale as opposed to a localised basis. If we consider the impacts of the NWRR on that national scale, then the additional carbon generated by the NWRR is negligible. Therefore, the question arises of whether the increase makes a material difference in planning terms? Clearly in relation to the project itself and on a county wide (local) base the increase is significant in terms of additional greenhouse gases however on a national and global basis the increase would barely register. Case</p>

	<p>law is clear that in the case of GHG emissions there is a single receptor which is globally and as such on that basis the impact would not amount to a material change in itself. However, how this increase is offset on a localised scale given the Council's Climate Change Emergency declaration and the intention to be Zero Carbon by 2030 clearly raises significant issues for the authority. The applicant has taken the stance from the beginning that the Council will own the Carbon generated by the development, but clearly the increase in emissions means that as a standalone project the NWRR is going to prevent the Council achieving its Net Zero target of 2030. The applicant has also sought greater flexibility in the wording of the condition to increase its ability to meet the offset target faster, however it is considered that these are both material changes from that previously considered which require further consideration prior to the issuing of a decision by the local planning authority.</p>
6.6	Alterations to Other Conditions
6.6.1	<p>In addition, to the change in circumstances set out above in relation to the carbon calculations and the suggested amendment to condition 41 to deal with this matter, the applicant has also requested that four other conditions agreed by the committee at the meeting on 15<sup>th</sup> February 2024 are altered to reflect other minor changes. An explanation is provided in relation to each amendment sought to each condition.</p>
6.6.2	<p>The other conditions which the applicant wishes to amend are as follows:</p> <p>8. No demolition of West View (B1) (Shrewsbury North West Relief Road Appendix 8.14: Bat Building Survey Report) or felling/pruning of trees T041, T050, T092 and T150 (Shrewsbury North West Relief Road Appendix 8.13: Bat Tree Survey Report) shall take place until a European Protected Species (EPS) Mitigation Licence with respect to bats has been obtained from Natural England and submitted with the approved method statement to the Local Planning Authority The proposal must be carried out in accordance with the approved information.</p> <p>Amended Wording</p> <p>8. No demolition of West View (B1) (Shrewsbury North West Relief Road Appendix 8.14: Bat Building Survey Report) or felling/pruning of trees <b>T041, T050 and T150</b> (Shrewsbury North West Relief Road Appendix 8.13: Bat Tree Survey Report) shall take place until a European Protected Species (EPS) Mitigation Licence with respect to bats has been obtained from Natural England and submitted with the approved method statement to the Local Planning Authority. The proposal must be carried out in accordance with the approved information.</p> <p>The reason provided for the change relates to The tree T092 being identified by the applicant in the June 2022 survey as having fallen to the ground (Photograph 3 of SEI Jan 23 Chapter 3, Appendix 3.K, Annex B). Given that T092 was a dead tree, it is likely that strong winds have brought it down since the last time T092 was surveyed for bats in 2021. The roost feature on T092 previously identified in surveys from 2021 was clearly identifiable from the ground (Photograph 4 of SEI Jan 23 Chapter 3, Appendix 3.K, Annex B), and it was clear that no bats remained</p>

	<p>in the roost feature post-collapse. Due to the collapse of the tree, features previously identified to be potential roost features were assessed to be unsuitable to support roosting bats and the suitability of the tree to support roosting bats was re-assessed to be negligible. As such, T092 should be removed the wording of the Condition.</p>
6.6.3	<p>30. No development shall commence until an amended Water Framework Directive Assessment (WFDa) has been submitted to and approved in writing by the LPA in consultation with the Environment Agency. The amended WFDa will build upon SEI Annex 6C: Water Framework Directive Assessment (PROJECT NO. 70056211, REF. NO. 70056211-WSP-EGN-ASRP-LE-00014) taking into account subsequent communications on the matter between the Environment Agency and the applicant, together with key outcomes from additional communications. The amended WFDa will address matters concerning risks and impacts to the Water Environment associated with the Proposed Scheme and propose mitigation measures where appropriate. The development shall be carried out in accordance with the approved details.</p> <p>The update to the WFD Assessment shall fully consider piling works or road pollution spills, notably relating to public water supply sources and high groundwater conditions.</p> <p>Amended Wording</p> <p>30. No development shall commence <b>with regard to the viaduct piling works</b> until an amended Water Framework Directive Assessment (WFDa) has been submitted to and approved in writing by the LPA in consultation with the Environment Agency. The amended WFDa will build upon SEI Annex 6C: Water Framework Directive Assessment (PROJECT NO. 70056211, REF. NO. 70056211-WSP-EGN-ASRP-LE-00014) taking into account subsequent communications on the matter between the Environment Agency and the applicant, together with key outcomes from additional communications. The amended WFDa will address matters concerning risks and impacts to the Water Environment associated with the Proposed Scheme and propose mitigation measures where appropriate. The development shall be carried out in accordance with the approved details. The update to the WFD Assessment shall fully consider piling works or road pollution spills, notably relating to public water supply sources and high groundwater conditions.</p> <p>The rationale for this change is that the current monitoring is ongoing, thus to submit with the correct data, this needs this to be linked to the viaduct piling works not the whole project.</p>
6.6.4	<p>44. Where the use of soakaways to drain the public highway are utilised, no development within the relevant phase of the development, as set out in the approved Phasing Plan required under condition 3 shall take place until infiltration</p>

	<p>testing in line with BRE Digest 365 and associated soakaway designs capable of attenuating all flows up to and including the 1 in 100 year return period and 40% climate change allowance has been submitted to and approved in writing by the Local Planning Authority. The approved scheme shall be fully implemented before the development is brought into use.</p> <p>Amended Wording</p> <p>44. Where the use of soakaways to drain the public highway are utilised, no development within the relevant phase of the development, as set out in the approved Phasing Plan required under condition 3 shall take place until infiltration testing in line with BRE Digest 365 and associated soakaway designs capable of attenuating all flows up to and including the 1 in 100 year return period and 40% climate change allowance has been submitted to and approved in writing by the Local Planning Authority. <b>The exception to this is that the infiltration testing for the linear soakaway located at the toe of the Southeast embankment of the Berwick Road roundabout shall be completed at 100m intervals.</b> The scheme shall be fully implemented before the development is brought into use.</p> <p>The reason for the changing to the wording relates to the revised infiltration testing protocol text as agreed with LLFA in principle. The additional granularity in this condition proposed meets their expectations.</p>
6.6.5	<p>58. Agricultural operations as detailed in the Habitat Regulation Assessment should be desisted within the buffer zone comprising all fields surrounding Hencott Pool within approximately 200m. Prior to the approved scheme being brought into use, a Final Compensation Delivery and Management Plan detailing measures to implement and monitor the approved mitigation shall be submitted to and approved by the Local Planning Authority and agreed with relevant parties in accordance with the S106 Agreement. The mitigation shall apply for a period of up to 80 years, subject to review every 5 years.</p> <p>Revised Wording</p> <p>58. Agricultural operations as detailed in the Habitat Regulation Assessment should be desisted within the buffer zone comprising all fields surrounding Hencott Pool within approximately 200m. Prior to the approved scheme being brought into use, a Final <b>Mitigation</b> Delivery and Management Plan detailing measures to implement and monitor the approved mitigation shall be submitted to and approved by the Local Planning Authority and agreed with relevant parties in accordance with the S106 Agreement. The mitigation shall apply for a period of up to 80 years, subject to review every 5 years.</p> <p>The change is required as the word "compensation" needs to be changed to "mitigation" to be in alignment with correct wording that avoids confusion with inferred adverse effect on the irreplaceable habitat in HRA terms and is in line with guidance for the mitigation hierarchy for planning decisions (paragraph 186(a) of</p>

	the National Planning Policy Framework) and as the remainder of the condition. The change is also required to align with reference to “mitigation” plan in the Section 106 agreement.
6.6.6	The above minor changes to wording of these four conditions have all been agreed with consultees and as such there are no objections to the proposed changes as it is not considered the changes dilute the requirements of the conditions. The changes are required more in relation to the logistics of delivery for the applicant and accordingly officers are satisfied that these requested changes can be accommodated without diminishing controls over the development.
<b>7.0</b>	<b>CONCLUSION</b>
7.1	In terms of mitigating and offsetting the now larger carbon impact, the applicant has reiterated their commitment to owning the carbon from NWRR. However, offsetting the scheme’s impact by 2030 is now considered impossible. Accordingly, the applicant has proposed that planning condition 41 be revised to allow the applicant until 2050 to achieve carbon neutrality of the scheme’s impact. The updated Carbon Assessment Plan sets out a plan to achieve this, and in line with best practice, the measures locally will be prioritised wherever possible. However, this increased flexibility in the wording would also allow the applicant to source carbon credits from further afield which potentially will result in expenditure not only outside of the county, but outside of the UK on potentially less reliable carbon offsets. Therefore, it is critical that a hierarchy of local, regional, country and international offsets is put in place and every effort made by the applicant to prioritise delivery of offsets on this basis, as opposed to sourcing cheaper offsets abroad which are less reliable and more difficult to monitor.
7.2	<p>Changes from the information provided in the Environmental Statement submitted in February 2021 are considered to be:</p> <p>The carbon impact of the scheme is now estimated to be larger than reported in the ES - under worst-case assumptions in line with the assessment prepared in the ES the impact would be 76,761 tCO<sub>2</sub>e over 60 years. Under more realistic assumptions and timescales the impact is estimated as 55,904 tCO<sub>2</sub>e by 2050. Either impact however is a minor increase in the context of UK carbon budgets (e.g. less than 0.01% in all active carbon budget periods). It results in an annual increase of approximately 8% in the context of total surface transport emissions in Shropshire. The impact under the worst-case assessment is considered not to change the judgement made in the EIA in 2021 of the proposals having a significant moderate adverse effect on GHG emissions. Therefore, the increase in emissions in itself is not considered to be material change from a planning perspective as case law is clear that it needs to be considered on a national scale and as such the change barely registers at that level.</p>
7.3	The increase in carbon and delays to the project programme mean it that the scheme’s estimated residual carbon impact cannot be offset by 2030 in line with the Council’s commitment as an authority to be carbon neutral by 2030. The applicant



	proposes to have by 2030 identified and committed to sufficient measures needed to offset the scheme's carbon impact. It is acknowledged that the full residual impact will not have been offset by 2030, but the process adopted will ensure the scheme's impact is offset by 2050 at the latest. It is therefore important to flag up that this raises a conflict between the Council's stated objective of being Carbon Neutral by 2030 and the applicant's goal of offsetting the impact of the scheme by 2050. It is considered that this is a material consideration that needs to be considered.
7.4	The revised calculation methodology has arisen from new DfT business case guidance and evolving best-practice from that accepted at the time the original assessment was undertaken, and the matter was considered by the North Planning Committee. This new DfT guidance was intended for assessment as part of business cases as a result of this, the applicant has re-assessed the carbon impact in order to ensure the management measures set out in response to Planning Condition 41 to reflect the latest understanding of the scheme's impact.
7.5	The applicant has reiterated their commitment to take the responsibility for carbon production arising from the scheme. The applicant has expressed confidence that the higher calculations can be accommodated by the typical activities mentioned in the mitigation and offsetting impact section of this report which are enforceable via condition 41. However, the applicant considers that by taking on this broader scope, a broader remit of solutions will be required and the wording in condition 41 will require revision to allow for this to be undertaken having regard to the geographical hierarchy set out above. The change to the wording of the condition to allow a more flexible approach geographically is considered a material change as previously the offsetting was envisaged to be delivered on a local/regional basis.
7.6	The updated carbon assessment and proposals for mitigating and offsetting the increased carbon impact of NWRR, including the proposed amendment to planning condition 41 are considered to result in a material change to the application which requires consideration by the Northern Planning Committee. However, it is considered that the rewording of condition 41 as set out above can satisfactorily deal with the increased carbon output and the applicant has indicated that they can satisfy the requirements of the reworded condition in the amended time frame.
7.7	The proposed alterations to the wording of conditions 8, 30, 44 and 58 are not considered to material in terms of the overall scheme and have been requested by the applicant to assist in terms of the delivery of the scheme. The amended wording of these four conditions has been discussed and agreed in consultation with the relevant consultees who raise no objections to the proposed changes and are content that the conditions are still robust.
7.8	Therefore, having regard to the above it is recommended that the Committee endorse the contents of the report and the proposed changes to condition 41, along with the revised wording of conditions 8, 30, 44 and 58 and resolve to grant planning permission subject to the completion of the S106 agreements with landowners.

<b>8.0</b>	<b>Risk Assessment and Opportunities Appraisal</b>
<b>8.1</b>	<b>Risk Management</b>
8.1.1	<p>The principal risk associated with this recommendation is as follows:</p> <ul style="list-style-type: none"> <li>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. This risk needs to be balanced against the risk of not proceeding to determine the application.</li> </ul>
<b>8.2</b>	<b>Human Rights</b>
8.2.1	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.
8.2.2	First Protocol Article 1 requires that the desires of landowners must be balanced against the impact on residents.
8.2.3	The LPA have also had regard to the provisions of the Human Rights Act 1998. We consider that the opportunity for objectors to make their cases through the planning application process fully, fairly and in public has ensured compliance with Article 6. In some cases, there would be interference with private and family life and home in contravention of Article 8, and interference in the peaceful enjoyment of possessions in contravention of Article 1 of the First Protocol of the Human Rights Act 1998.
8.2.4	However, with the weight of exceptional circumstances coupled with planning policy in favour of the Proposed Development, along with the wider public interest justifies any interference with the human rights of the owners and occupiers affected by the proposals. The interference in their human rights would be proportionate and justified in the public interest.
8.2.5	This legislation has been taken into account in arriving at the above recommendation.
<b>8.3</b>	<b>Equalities</b>
8.3.1	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.
8.3.2	The proposal for the NWRR will provide for the needs and interests of the public at large, for example, how they use the highway network in Shrewsbury. Any impacts on footpaths, bridleways, cycleways and any other access routes have been taken into account and given appropriate weight in the consideration of the application.
8.3.3	The LPA have had regard to the Public Sector Equality Duty (PSED). The Proposed Development does not harm the interests of persons who share a protected characteristic or have any adverse effect on the relationships between such persons and persons who do not share a protected characteristic. On that basis, there would be no breach of the PSED.
<b>9.0</b>	<b>Financial Implications</b>
9.1	There are likely financial implications if the decision and / or imposition of conditions is challenged by a 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.
9.2	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.
<b>10.0</b>	<b>Artificial Intelligence (AI)</b>
10.1	AI can be used to support our work and to create content by bringing together or summarising responses to consultation. The report writer remains responsible for ensuring that the content of the report is factually accurate and that the use of AI is responsible and lawful. All original documents remain unaltered on the planning register should you wish to view them in full.

## 11. Background

### Relevant Planning Policies

National Planning Policy Framework (NPPF – December 2024)

National Planning Policy Guidance

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

CS1 - Strategic Approach

CS2 - Shrewsbury Development Strategy

CS5: Countryside and Green Belt

CS6 - Sustainable Design and Development Principles  
CS7 - Communications and Transport  
CS8 - Facilities, Services and Infrastructure Provision  
CS13: Economic Development, Enterprise and Employment  
CS17 - Environmental Networks  
CS18 - Sustainable Water Management  
MD1 - Scale and Distribution of Development  
MD2 - Sustainable Design  
MD7B - General Management of Development in the Countryside  
MD8 Infrastructure Provision  
MD12 - Natural Environment  
MD13 - Historic Environment  
Settlement: S16 - Shrewsbury  
SPD Sustainable Design Part 1

#### RELEVANT PLANNING HISTORY:

PREAPP/12/00559 Mixed use development of approximately 350 dwellings, 3.23ha of B1 and commercial uses, relocated park and ride facility, section of Oxon Link Road between Churncote Island and Shepherd's Lane, and associated open space, landscaping, highway and drainage works. PREAIP 16th August 2013

13/00265/SCR First phase of a comprehensive mixed use proposal for approx. 720 dwellings and 9 to 12 hectares of Class B1, 2 and 8 and other commercial floor space, Local Centre uses, open space, park and ride facility, drainage engineering operations and highway links EAM 20th February 2013

14/00246/OUT Outline application for 296 mixed residential dwellings (landscaping reserved) and employment/commercial use (all matters reserved) to include; offices; showroom; A3/A4 (restaurant/pub); C1 (hotel); public open space, structural landscaping, associated infrastructure; vehicular accesses and all associated infrastructure GRANT 13th September 2019

PREAPP/17/00029 The Oxon Link Road consists of a single two lane carriageway approximately 1.8km in length with footway, cycle facilities and grassed verges. Sections of the proposed highway will be on embankment and in cutting as well as at existing ground level. The existing A5 Churncote roundabout will be increased in size to accommodate the Link Road and two new roundabout junctions constructed at the intersection with Little Oxon Lane and Holyhead Road. Proposed structures consist of two footway/cycleway bridges crossing the Link Road, one adjacent to Calcot Lane forming part of an existing footpath diversion and the second along the line of Clayton way which will be downgraded to pedestrian use only. The road will include drainage, signs and lighting where appropriate. PREAIP 15th March 2017

17/01222/SCR Screening Opinion for the Oxon Link Road EIA 10th April 2017

17/01998/SCO Scoping Opinion for the Oxon Link Road (PREAPP/17/00029) SCO 7th June 2017

PREAPP/18/00226 Proposed construction of new road (North West Relief Road) PREAIP 29th May 2018

18/03166/EIA Construction of two-lane carriageway (approx. 1.7km) with a combined use footway/cycleway and grass verges; sections of the scheme will be on embankment and in cutting as well as at existing ground level; re-construction of existing A5 Churncote roundabout to accommodate the link road and two new roundabout junctions constructed at the intersection with Little Oxon Lane and the B4380 Holyhead Road WDN 30th August 2019

19/05023/SCO Request for Environmental Impact Assessment Scoping opinion (North-West Relief Road) . SCO 28th January 2020

19/05247/DIS Discharge of condition 4 (Full Arboricultural Impact Assessment) 11 (CMS) 13 (Ecology) 17 (Materials) 18 (Drainage Details) 22 (Drainage - Surface Water) 23 (Foundations) attached to planning permission 14/00246/OUT Outline application for 296 mixed residential dwellings (landscaping reserved) and employment/commercial use (all matters reserved) to include; offices; showroom; A3/A4 (restaurant/pub); C1 (hotel); public open space, structural landscaping, associated infrastructure; vehicular accesses and all associated infrastructure DISAPP 20th May 2020

PREAPP/20/00140 The Proposed Scheme comprises the provision of a new 7.3m wide single carriageway all-purpose road with 1.0m nearside hard strips. A climbing lane will be provided on the westbound approach to the proposed Holyhead roundabout which will cross the proposed viaduct structure over the River Severn. The Proposed Scheme also proposes an accommodation overbridge to provide access to the north and south of the Proposed Scheme west of Berwick Road. The Proposed Scheme will cross the Shrewsbury to Chester rail via an underbridge structure. Throughout the Proposed Scheme, adjacent to the southside of the carriageway a footway/cycleway facility will be provided with linkages to existing non-motorised user routes. The Proposed Scheme will also introduce two new roundabout junctions and the improvement of the A5 Churncote roundabout and the A528 Ellesmere Road Roundabout to facilitate the Proposed Scheme. The Proposed Scheme comprises the provision of a new 7.3m wide single carriageway all-purpose road with 1.0m nearside hard strips. A climbing lane will be provided on the westbound approach to the proposed Holyhead roundabout which will cross the proposed viaduct structure over the River Severn. The Proposed Scheme also proposes an accommodation overbridge to provide access to the north and south of the Proposed Scheme west of Berwick Road. The Proposed Scheme will cross the Shrewsbury to Chester rail via an underbridge structure. Throughout the Proposed Scheme, adjacent to the southside of the carriageway a footway/cycleway facility will be provided with linkages to existing non-motorised user routes. The Proposed Scheme will also introduce two new roundabout junctions and the improvement of the A5 Churncote roundabout and the A528 Ellesmere Road Roundabout to facilitate the Proposed Scheme. PREAIP 19th May 2020

20/01667/AMP Non Material Amendment to previously approved (19/05386/DIS) Condition 12 (Construction Environmental Management Plan) to Planning Permission 14/00246/OUT Outline application for 296 mixed residential dwellings (landscaping reserved) and employment/commercial use (all matters reserved) to include; offices; showroom; A3/A4 (restaurant/pub); C1 (hotel); public open space, structural landscaping, associated infrastructure; vehicular accesses and all associated infrastructure GRANT 5th May 2020

20/04924/DIS Discharge of condition 10 (Badger Inspection) attached to planning permission 14/00246/OUT DISAPP 7th January 2021

21/00425/DIS Discharge of condition 16 (Contamination) attached to planning permission

14/00246/OUT Outline application for 296 mixed residential dwellings (landscaping reserved) and employment/commercial use (all matters reserved) to include; offices; showroom; A3/A4 (restaurant/pub); C1 (hotel); public open space, structural landscaping, associated infrastructure; vehicular accesses and all associated infrastructure DISAPP 1st March 2021

PREAPP/23/00444 Proposed erection of a foodstore with associated car parking, hardstanding and landscaping PREUDV 19th July 2023

## 12. Additional Information

View details online: <http://pa.shropshire.gov.uk/online-applications/applicationDetails.do?activeTab=summary&keyVal=QOXI5QTD06Z00>

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 Lezley Picton – Tern Cllr Alex Wagner – Bowbrook Cllr Rob Wilson – Copthorne Cllr Nat Green – Quarry and Coton Hill Cllr Garry Burchett – Bagley Cllr Jeff Anderson - Harlescott
Appendices APPENDIX 1 - Conditions

## APPENDIX 1

### Conditions

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

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

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

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

3. Prior to the commencement of the development, a Phasing Plan shall be submitted to and approved in writing by the Local Planning Authority (LPA). The Phasing Plan shall present, the order and time period within which each phase of the approved development will be constructed. Conditions (set out below) that are required to be submitted to the Local Planning Authority for approval shall be submitted to and agreed in accordance with the sequence set out in the agreed phasing plan. The approved development shall thereafter be implemented solely in accordance with the approved Phasing Plan.

Reason: To allow the development to progress in phases and each relevant condition to be discharged according to the relevant phase.

4. In this condition 'retained tree' means an existing tree, woody shrub or hedge which is to be retained in accordance with the approved plans and particulars; and any tree, woody shrub or hedge planted as a replacement for any 'retained tree':

a) No retained 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 LPA. Any approved tree works shall be carried out in accordance British Standard 3998: 2010 Tree Work - Recommendations, or its current version.

b) Prior to commencement of each phase of the development, as set out in the approved Phasing Plan required under condition 3, a scheme shall be submitted to and approved in writing by the LPA to safeguard trees, woody shrubs and hedges to be retained on and adjacent to the site. The scheme shall be based upon an Arboricultural Impact Assessment and include an Arboricultural Method Statement (AMS) and / or a Tree Protection Plan (TPP), prepared in accordance with and meeting the minimum tree protection requirements recommended in, British Standard 5837: 2012 Trees in Relation to Design, Demolition and Construction - Recommendations, or its current version.

c) For each phase of the development, any pre-commencement tree works and all tree protection measures detailed in the approved AMS and / or TPP shall be fully implemented and

details of implementation shall be submitted to and approved in writing by the LPA, before any development related equipment, materials or machinery are brought onto the site.

d) The development shall be implemented in accordance with the approved tree protection scheme, AMS and / or TPP. The approved tree protection measures shall be maintained in a satisfactory condition throughout the duration of the development, until all equipment, machinery and surplus materials have been removed from the site.

e) For each phase of the development, all services and drainage infrastructure will be routed outside the Root Protection Areas indicated on the approved TPP or, where this is not possible, a detailed method statement and task specific TPP will be submitted to and approved in writing by the LPA prior to any work commencing on site. Thereafter the development shall be carried out strictly in accordance with the AMS and TPP.

f) No works associated with the relevant phase of development, as per the approved Phasing Plan (condition 3) shall 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 approved tree protection measures are fully complied with. The LPA will be informed in writing of the identity of said person and any change 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 in accordance with Policies CS6 and CS17 of the Core Strategy and MD12 of the SAMDev Plan.

5. No development shall commence until a Final Compensation Strategy for Ancient Woodland, Veteran Trees and Local Wildlife Sites has been submitted to and approved in writing by the Local Planning Authority and the related plans required by the Final Compensation Strategy as set out in the S106 Agreements have been agreed in accordance with the S106 Agreements. The Final Compensation Strategy shall include the following:

a) A delivery plan and timetable;

b) Detailed Woodland Management plans prepared in compliance with the UK Forestry Standard (5th Edition, October 2023);

c) Detailed Veteran Tree Management plans prepared in accordance with 'Ancient and veteran trees: further guidance on management' (published by the Tree Council, 2013); and

d) Detailed planting and maintenance plans for compensatory tree planting, prepared in accordance with British Standard 8545: 2014-Trees: from Nursery to Independence in the Landscape - Recommendations.

The development shall thereafter be completed in accordance with the Approved Strategy.

Reason: To ensure that a suitable compensation strategy is provided due to the loss and deterioration of irreplaceable assets as per paragraph 186c) of the NPPF and to compensate



for unavoidable significant impacts to natural assets as per Local Plan policies MD12 and CS17.

6. No development shall commence until a scheme for the offsetting of wet woodland impacts has been submitted to and approved in writing by the Local Planning Authority. The proposed offsetting scheme shall include:

- i. The identification of an offsetting site or sites which generates a minimum of 12.28 wet woodland or broadleaved woodland biodiversity units in accordance with the statutory biodiversity offsetting metric, and
- ii. The provision of arrangements to secure the delivery of offsetting measures, including a timetable for delivery; and
- iii. A Woodland Management and Monitoring Plan, to include for the provision and maintenance of the woodland offsetting scheme for a period of no less than 30 years from the date of implementation of the offsite provision. The management and monitoring plan shall include:
  - a. Description of woodland habitat to be created/enhanced including expected management condition and total area; and
  - b. Review of the ecological constraints; and
  - c. Detailed designs and/or working methods (management prescriptions) to achieve proposed habitats and management conditions, including extent and location of proposed works; and
  - d. Type and source of materials to be used, including species list for all proposed planting and abundance of species within any seed mix; and
  - e. Identification of the persons responsible for implementing the works; and
  - f. A timetable of future ecological monitoring to ensure that the woodland habitats achieve their proposed management condition as well as a description of a feed-back mechanism by which the management prescriptions can be amended should the monitoring deem it necessary.
  - g. Monitoring reports will be submitted to the Council during years 1, 2, 5, 7, 10, 20 and 30 from commencement of development unless otherwise stated in the Woodland Management and Monitoring Plan demonstrating how the offsetting provision is progressing towards achieving its objectives, evidence of arrangements and any rectifying measures needed.

The offsetting scheme shall thereafter be maintained and monitored in accordance with the approved details.

Reason: To compensate for the loss of wet woodland priority habitat in accordance with the mitigation hierarchy and Local Plan policies MD12 and CS17.

7. No development within 50 metres of an active badger sett shall take place (including demolition, ground works and vegetation clearance) until either:
- a) a Licence with respect to badgers has been obtained from Natural England and submitted to the Local Planning Authority; or

b) a statement from an appropriately qualified and experienced ecologist has been submitted and approved in writing to the Local Planning Authority explaining why a licence is not required and setting out any additional mitigation measures required for prior approval. These measures will be implemented as approved.

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

8. No demolition of West View (B1) (Shrewsbury North West Relief Road Appendix 8.14: Bat Building Survey Report) or felling/pruning of trees T041, T050, T092 and T150 (Shrewsbury North West Relief Road Appendix 8.13: Bat Tree Survey Report) shall take place until a European Protected Species (EPS) Mitigation Licence with respect to bats has been obtained from Natural England and submitted with the approved method statement to the Local Planning Authority. The proposal must be carried out in accordance with the approved information.

Reason: To ensure the protection of bats which are European Protected Species.

9. No works in the relevant phase set out in the Phasing Plan (condition 3), including clearance of vegetation shall take place until a Construction Environmental Management Plan (Ecology) pertaining to that phase has been submitted to and approved in writing by the LPA. The plan shall include:

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

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

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

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

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

f) Identification of Persons responsible for:

i) Compliance with legal consents relating to nature conservation;

ii) Compliance with planning conditions relating to nature conservation;

iii) Installation of physical protection measures during construction;

iv) Implementation of sensitive working practices during construction;

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

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

g) Pollution prevention measures.

All construction activities shall be implemented strictly in accordance with the approved details and timing of the plan.

Reason: To protect features of recognised nature conservation importance in accordance with MD12, CS17 and section 180 of the NPPF. This a pre-commencement condition to ensure that the wildlife protection zones, and protective measures are in place before any other works to ensure that the development does not adversely affect wildlife.

10. No development within each phase of the development (including vegetation clearance, ground works etc), as set out in the approved Phasing Plan required under condition 3 shall commence until a Bat Monitoring Strategy has been submitted to and approved in writing by the Local Planning Authority. The strategy shall include details of bat monitoring to be undertaken in the whole summer immediately prior to the commencement of vegetation clearance and thereafter at appropriate intervals during construction and during the first year of operation.

The surveys shall be undertaken in accordance with the approved strategy, and the results of each survey together with monitoring conclusions and any recommendations for additional mitigation measures required shall be submitted to the LPA within 3 months of their completion and implemented in accordance with the recommendations with 12 months.

Reason: To monitor the effectiveness of mitigation for bats which are European protected species.

11. No works in the relevant phase set out in the Phasing Plan (condition 3) shall take place and no equipment, machinery or materials will be brought onto site for the purpose of said development phase until a detailed soft landscaping scheme pertaining to that phase incorporating suitable and appropriate tree, shrub and hedge planting, grassland and wetland planting prepared in accordance with relevant British Standards, has been submitted to and approved in writing by the LPA. Tree planting objectives shall be specified, and plans and specifications drawn up to accord with BS8545: 2014-Trees: from Nursery to Independence in the Landscape - Recommendations) The landscaping scheme shall include:

a) A planting schedule, detailing plants/seed mixes, noting species (including scientific names), planting stock types and sizes and proposed numbers/densities where appropriate;

b) Details as relevant of ground preparation and cultivation, tree planting pit specifications, and planting or sowing technique;

c) Means of protection and support for planted trees and shrubs against browsing damage from livestock or wild animals;

d) Written specifications for mulching, weeding and other maintenance operations as relevant to ensure successful establishment of planting and habitat creation;

e) Specifications for, and locations of, badger fencing; and

f) Implementation timetables.

Native species used are to be of local provenance (Shropshire or surrounding counties). The approved landscaping scheme shall be implemented as specified and completed prior to completion of the relevant phase. If within a period of five years from the date of planting, any tree or shrub, or any tree or shrub planted in replacement for it, dies or, in the opinion of the LPA becomes seriously damaged or diseased, or is otherwise lost or destroyed, another tree or shrub of a similar specification to the original shall be planted at the same place during the first available planting season.

Reason: To ensure the provision of amenity and biodiversity afforded by appropriate landscape design in accordance with Policies CS6 and CS17 of the Core Strategy and MD12 of the SAMDev Plan.

12. 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 submitted scheme shall be designed to take into account the advice on lighting set out in the Bat Conservation Trust/Institute of Lighting Professionals Guidance Note 08 23 Bats and artificial lighting at night. 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 protected species in accordance with Policy CS17 of the Core Strategy and MD12 of the SAMDev Plan.

13. Prior to the commencement of development within the relevant phase as set out in the approved Phasing Plan, the following plans shall be submitted to the Local Planning Authority for approval in writing showing:

a) Badger tunnels of a minimum of 600mm in width; and

b) Details of how wildlife will access the mammal ledge provided through Alkmund Park Culvert, Willow Pool Wildlife Culvert and the Hencott Pool Culvert.

The plans shall be implemented as in accordance with approved details.

Reason: To ensure effective mitigation is provided for protected species in accordance with Policy CS17 of the Core Strategy and MD12 of the SAMDev Plan.

14. No development shall take place until a scheme for the landscaping of the site has been submitted to and approved in writing by the Local Planning Authority. The landscaping scheme shall include details of hard landscaping, planting plans, written specifications (including cultivation and other operations associated with tree, shrub, hedge or grass establishment),

schedules of plants noting species, plant sizes, the proposed numbers and densities and an implementation programme.

Reason: To ensure appropriate landscaping of the site having regard to SC6 "Sustainable Design and Development Principles", SC17 "Environmental Networks" of the Shropshire Core Strategy, and MD12 "Natural Environment " of the Shropshire Council Site Allocations and Management of Development (SAMDev) Plan.

15. No development shall take place until a method statement for the control and eradication of invasive species such as Japanese knotweed and Himalayan balsam has been submitted to and approved by the Local Planning Authority. The submitted method statement shall include location maps for all stands and method of control, including timings of the work and disposal of any contaminated material. The development shall be carried out in accordance with the approved details.

Reason To safeguard and enhance the natural environment and biodiversity of the County in accordance with the requirements of Policies SC6 "Sustainable Design and Development Principles", SC17 "Environmental Networks" of the Shropshire Core Strategy, and MD12 "Natural Environment " of the Shropshire Council Site Allocations and Management of Development (SAMDev) Plan.

16. No development within each phase of the development, as set out in the approved Phasing Plan required under condition 3 shall take place until a scheme of surface water drainage providing evidence that the proposed drainage systems serving the North West Relief Road (NWRR) (relevant to that phase) are capable of attenuating all flows up to and including the 1 in 100-year return period + 40% climate change, whilst maintaining the agreed rates of discharged shown in table 4.2 of the Flood Risk Assessment (Appendix 17.2: Flood Risk Assessment V2.0), has been submitted to and approved in writing by the Local Planning Authority. Where the proposed drainage system connects to an existing highway drainage network, evidence that the receiving system has the capacity to adequately cater for any increased flow up to their point of discharge should be submitted. Where offsite improvements are required to accommodate additional flows, these works should be completed prior to any new connections being made. The approved scheme shall be fully implemented before the development is brought into use.

Reason: To ensure satisfactory drainage of the site and to avoid flooding in accordance with Policy C18.

17. No development within each phase of the development, as set out in the approved Phasing Plan required under condition 3 shall take place until a scheme for dealing with exceedance flows relevant to that phase has been submitted to and approved in writing by the Local Planning Authority.

Shropshire Council's "Surface Water Management: Interim Guidance for Developers, paragraphs 7.10 to 7.12" and CIRIA's "C753 The SuDS Manual" requires that exceedance

flows for events up to and including the 1 in 100-year return period + climate change should not contribute to surface water flooding of any area outside of the development site. Although the attenuation features have been designed accordingly, critical storm analysis and flood exceedance should be carried out to determine exceedance storage volumes / depths and flow paths within the highway corridor should be designated to mitigate the risks to people and property.

A contour and exceedance route plans should be submitted for approval demonstrating that the above has been complied with. The approved scheme shall be fully implemented before the development is brought into use.

Reason: To ensure satisfactory drainage of the site and to avoid flooding in accordance with Policy CS18.

18. No development within each phase of the development, as set out in the approved Phasing Plan required under condition 3 shall take place until a SuDS and Highway Drainage Maintenance Plan relevant to that phase has been submitted to and approved in writing by the Local Planning Authority. The approved scheme shall set out ownership and maintenance responsibilities, access and frequencies for each of the proposed SuDS features, the highway drainage network and all associated land drains, filter strips and conveyance ditches etc included in the detailed drainage design. Where agencies with proposed ownership and maintenance responsibilities have been identified, evidence that they have the relevant experience and expertise to fulfil these requirements will also be required. Where MEICA e.g. alarmed interceptors will be used to identify and contain pollution incidents, a detailed management plan setting out responsibilities for responding to, containing and disposing of any hazardous waste (to include the remediation of the affected SuDS feature) over the lifetime of the NWRR will be required. The approved scheme shall be fully implemented before the development is brought into use.

Reason: To ensure satisfactory drainage of the site and to avoid flooding in accordance with the requirements of Policy CS18.

19. No development within each phase of the development, as set out in the approved Phasing Plan required under condition 3 shall take place until a scheme of habitat and biodiversity enhancements to compensate for any loss of ordinary watercourse habitat which may be caused as a result of the implementation of the relevant phase of development has been submitted to and approved in writing by the Local Planning Authority. Where Ordinary Watercourses and Main Rivers are being amended, Ordinary Watercourse Consent and Flood Risk Activity Permit must be secured prior to any works taking place. Where the proposed scheme impacts the contributing catchments for existing surface water features (such as the pool on Calcott Lane), evidence on how sufficient flow to these features will be maintained or how compensatory clean flows will be provided to as part of the scheme should be submitted. The approved scheme should result in demonstrable enhancements in each location where the NWRR crosses Ordinary Watercourses and be fully implemented before the development is brought into use.

Reason: The condition is a pre-commencement condition to ensure that the project secures the required Ordinary Watercourse Consents and Flood Risk Activity Permit and that the projects does not have a negative impact on the surface water environment and to ensure the satisfactory drainage of the site and to avoid flooding in accordance with Policy CS18

20. No development (excluding test piling) shall take place until a scheme for dispersivity modelling including reporting, and any mitigation measures, has been submitted to and agreed in writing by the LPA in consultation with Severn Trent Water Ltd and the Environment Agency. The development shall be carried out in accordance with the approved details.

Reason: To avoid impact and provide protection of the surface water environment and associated sensitive public water supply sources in accordance with Policy CS18.

21. No development (excluding test piling) shall commence until a scheme for an update to the Detailed Quantitative Risk Assessment (DQRA) is submitted to and approved in writing by the LPA in consultation with Severn Trent Water Ltd and the Environment Agency. The scheme shall include, but may not be limited further revised modelling, review of risk, Review strategy, any monitoring, and implementation of any necessary avoidance and mitigation measures. The development shall be carried out in accordance with the approved details.

Reason: To avoid impact and provide protection of the groundwater environment and associated sensitive public water supply sources in accordance with Policy CS18.

22. No development shall commence until a water feature survey has been submitted to and approved in writing by the LPA. This shall include:

- The precise location of both licensed and un-licensed private groundwater sources (springs, wells and boreholes nominally supplying potable water).
- An impact assessment upon those features identified that may be affected by then proposed works.
- Proposals for monitoring and sampling including frequency and location of monitoring; method and nature of sampling and the analysis suite (determinands). Thereafter monitoring shall be carried out and reviewed in accordance with the approved scheme.
- Options to remediate any impact, details of the measures required and how they are to be undertaken. A verification plan providing details of the data that will be collected in order to demonstrate that the works set out are complete and identifying any requirements for longer-term monitoring of pollutant linkages, maintenance and arrangements for contingency action. The development shall be carried out in accordance with the approved details.

Reason: To avoid impact and provide protection of the groundwater environment and associated sensitive public water supply sources in accordance with Policy CS18.

23. No development shall commence until a scheme for groundwater and surface water monitoring is submitted to and approved in writing by the LPA in consultation with Severn Trent Water Ltd and the Environment Agency. The scheme shall include, but may not be limited to

- Details of the proposed groundwater and surface water monitoring strategy, the proposed monitoring network, monitoring frequency/duration and analytical testing suites.
- Assessment criteria including screening levels and reporting mechanisms (standard and in response to screening exceedances).
- Review and implementation of any necessary mitigation measures should screening levels be exceeded.
- Details of a borehole decommissioning strategy.

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

Reason: to protect the water environment, including public and private water supplies in accordance with Policy CS18.

24. No piling work (excluding test piling) associated with the construction of the road section (River Severn Crossing) will commence until a turbidity protocol is submitted to and approved in writing by the Local Planning Authority. The protocol shall be developed in consultation with Severn Trent Water and the Environment Agency and will act to ensure that risks to the operation of local public water supply boreholes are appropriately managed during the construction period. The protocol will include:

- o Details of the required network of observation boreholes and installed monitoring equipment.
- o Monitoring and sampling plan (pre, during and post construction) at observation boreholes and abstraction boreholes.
- o Agreed Piling methodology and standoff limits between toe of piling and bedrock.
- o Schedule of alarm trigger levels (set with respect to UKDWS limits) and stakeholder notification plan.
- o Piling stand down triggers.
- o Stand Down and Recommencement Process Plan including contingency and mitigation proposals.
- o Reporting requirements.

Piling activities will not be undertaken outside of standard (Mon-Fri - 0800-1730) working hours unless formally agreed in advance with Severn Trent Water. The development shall be carried out in accordance with the approved details.

Reason: To address monitoring and management of turbidity risks identified in the Piling Works Risk Assessment and to ensure that the water environment is not compromised in accordance with Policy CS18.

25. Prior to the commencement of the development, detailed proposals that demonstrate how a minimum of a 10 metre standoff shall be achieved, between the base of any piles supporting the Shelton Rough River Severn Viaduct and the underlying competent bedrock



((defined within SEI Jan 2023, Chapter 5: Geology & Soils, Appendix 5.D: Appendix 10.3: Piling Works Risk Assessment, Revision 4 (confidential); Annex D; Interpretation & definition of completely weathered and fractured bedrock) shall be submitted to and approved in writing by the Local Planning Authority, The development shall be carried out in accordance with the approved details.

Reason: To ensure protection of underlying competent bedrock in accordance with CS18.

26. Prior to the development there by approved being brought into use, final details of how a 10m standoff between the base of any piles and the underlying competent bedrock has been achieved shall be submitted to and approved in writing by the Local Planning Authority. The details shall include borehole logs that demonstrate the depth to, and the lithological configuration within, which the piles were drilled and completed. The development shall be carried out in accordance with the approved details.

Reason: To ensure protection of underlying competent bedrock in accordance with Policy CS18.

27. Prior to the commencement of the development, no test piling works will commence until detailed proposals for how test piles will be designed and implemented have been approved by the Local Planning Authority, in consultation with Severn Trent Water Ltd and the Environment Agency. The proposals shall include details of how the findings of the test piles will be communicated to the Local Planning Authority, Severn Trent Water Ltd and the Environment Agency. The development shall be carried out in accordance with the approved details.

Reason: To ensure protection of underlying competent bedrock in accordance with Policy CS18.

28. Prior to the commencement of the relevant phase of development, as set out in the approved Phasing Plan, detailed designs including drawings showing extent and tie-in details and method statements for the construction of the bank protection works on the right bank of the River Severn at Shelton Rough, substantially in accordance with the details defined within SEI Jan 2023, Chapter 1, Appendix 1.P Bank Protection and Appendix 6.F Geomorphological Assessment, shall be submitted to and approved in writing by the Local Planning Authority. A longer-term vegetation/bank protection management strategy, including consideration of additional bankside habitat enhancement as well as the mitigated length, should be produced to ensure good structural vegetation is maintained appropriately which includes the maintenance buffer zone within the boundary of the site and submitted to and approved in writing by the LPA. The development shall be carried out in accordance with the approved details.

Reason: To ensure protection of the right bank of the River Severn in accordance with Policy CS17, CS18 and MD12 of the SAMDev Plan.

29. No development shall commence until a surface water drainage scheme for all road systems and infrastructure within the Shelton Source Protection Zone has been submitted to and approved in writing by the LPA in consultation with Severn Trent Water Ltd and the Environment Agency. The scheme shall include design, construction, pollution control, and future maintenance of an effective road drainage system in accordance with the Drainage Strategy 70056211-WSP-HDG-AS-RP-CD-00001 P02 July 2021.

Reason: To ensure a satisfactory drainage scheme and protect the water environment including public water supply in accordance with Policy CS18.

30. No development shall commence until an amended Water Framework Directive Assessment (WFDa) has been submitted to and approved in writing by the LPA in consultation with the Environment Agency. The amended WFDa will build upon SEI Annex 6C: Water Framework Directive Assessment (PROJECT NO. 70056211, REF. NO. 70056211-WSP-EGN-ASRP-LE-00014) taking into account subsequent communications on the matter between the Environment Agency and the applicant, together with key outcomes from additional communications. The amended WFDa will address matters concerning risks and impacts to the Water Environment associated with the Proposed Scheme and propose mitigation measures where appropriate. The development shall be carried out in accordance with the approved details.

The update to the WFD Assessment shall fully consider piling works or road pollution spills, notably relating to public water supply sources and high groundwater conditions.

Reason: To minimise, and if possible avoid, significant risks or impacts to the Water Environment associated with the Proposed Scheme in accordance with Policy CS18.

31. No demolition or construction work within each phase of the development, as set out in the approved Phasing Plan required under condition 3 shall commence until a Construction Environmental Management Plan (CEMP) relevant to that phase, and including means for protecting the nearby highly sensitive environmental receptors (water abstractions, surface waters, etc) from contamination, and other sensitive receptors from dust, noise and vibration, has been submitted to and approved in writing by the Local Planning Authority. The CEMP shall be based upon the framework and topic matters set out in the approved Outline Construction Environmental Management Plan.

The CEMP shall include:

- o Procedures to ensure all works adhere to Best Practicable Means (BPM), to reduce noise (including vibration) to a minimum, with reference to the general principles contained in British Standard BS5228: 2009 'Code of practice for noise and vibration control on construction and open sites, Parts 1 and 2'.
- o An assessment in accordance with British Standard 5228 2009+A1:2014, as part of the finalisation of working methods and informed by the specific plant and machinery which will be used to show how noise and vibration effects of construction will be minimised.

- o Where the assessment indicates a serious noise impact over a substantial period of time in accordance with the criteria provided in BS5288 a scheme of additional mitigation shall be provided.
- o A procedure for dealing with complaints regarding noise and dust.
- o A procedure for notifying occupiers who are likely to be impacted from works.
- o Staff training to cover principles of Best Practicable Means (BPM) relating to all site activities.
- o Measures to prevent the deposit of extraneous matter (mud, debris etc.) onto public highways by vehicles travelling from the site;
- o Emergency procedures to cover spills or pollution
- o Sensitive working practices and robust pollution prevention control measures in proximity to sensitive locations, including (but not limited to) the Severn Trent Water surface water intake on the River Severn, Groundwater Source Protection Zones (SPZ) and other sensitive surface water receptors such as Hencott Pool and Oxon Pool;
- o Sensitive demolition practices.
- o Details of construction phasing and programming
- o The designated route for all construction and delivery vehicles
- o Details of diversion of local roads, footpaths and public rights of way
- o Locations for loading/unloading, waiting/holding areas and means of communication for delivery vehicles if space is unavailable within or near the site;
- o Details of construction access/haulage routes, parking and traffic
- o Details of traffic management and control measures including temporary road signage.
- o Measures to protect vulnerable road users (cyclists and pedestrians)
- o Arrangements for temporary facilities for any bus stops or routes
- o Swept paths showing access for the largest vehicles regularly accessing the site and measures to ensure adequate space is available
- o Arrangements to receive abnormal loads or unusually large vehicles;
- o Arrangements for the turning of vehicles, to be within the site unless completely unavoidable
- o Construction compounds including the storage of plant and materials used in the construction of development.
- o Details of any Utilities Diversions
- o Private Farm Services
- o Working hours and restrictions
- o Details of Site security including o the erection and maintenance of security hoarding and any scaffolding;
- o Construction Employment
- o 24-hour emergency contact number
- o Site Office and Welfare facilities
- o Temporary drainage solutions
- o Site clearance procedures
- o Earthworks and Site levels
- o Lighting
- o A scheme for recycling/disposing of waste resulting from demolition and construction works.
- o Methods of communicating the Construction Management Plan to staff, visitors and neighbouring residents and businesses.
- o Key construction practices
- o Health and Safety Procedures
- o Travel planning for construction operatives
- o Environmental Procedures and Protections

- o Details of and position of any proposed cranes to be used on the site;
- o A detailed programme of the works and risk assessments
- o Full details of restoration and reinstatement works with a timetable.
- o a dust management plan shall be submitted for approval in writing prior to any ground works and construction activity commencing. The plan shall include but not be limited to details and activity specified in section 7.2 of the CEMP submitted with the application to ensure dust nuisance and PM10 monitoring locations, methodology and timeline relative to delivery of the development shall be included. The plan will state a timeline for introducing monitoring and maintaining monitoring. The plan shall state how any complaints arising will be processed and actioned.

The development shall be undertaken in accordance with the approved Construction Environmental Management Plan.

Reason: In the interest of the amenity of the occupants of surrounding properties, environmentally sensitive receptors and the safe operation of the highway network in accordance with Policies CS6 and CS18.

32. No construction and or demolition works (including deliveries) that may be clearly audible at the site boundary shall occur before 07:30 or after 18:00 on weekdays nor before 0800 or after 1300 on Saturdays and not at any time on Sundays or Bank Holidays.

Where any site activities cannot comply with these times, the Applicant shall apply to the Council in writing for a Dispensation at least 21 days in advance of the proposed operation submitting the following:

- o Details of the operation in question
- o Reasons why the operation cannot be carried out within the terms of the Consent
- o Proposed working hours
- o Predicted noise and vibration levels at relevant locations
- o Proposed steps taken to reduce noise and/or vibration to a minimum.

Where dispensation is required for works of a critical nature for reasons not envisaged and beyond the control of the applicant (such as key activities likely to delay other key activities) the applicant shall apply in writing where practicable at least 48 hours in advance and at least 7 days in advance if the work is expected to last for a period of 5 days or more.

Reason: In the interest of the amenity of the occupants of surrounding sensitive properties in accordance with Policy CS6.

33. Prior to the commencement of the development a Construction Waste Management Plan shall be submitted to and approved in writing by the Local Planning Authority. The details contained in the approved Waste Management Plan shall be adhered to at all times.

Reason: The information is required prior to commencement of the development to safeguard the amenities of the area in accordance with Policy CS6 of the Core Strategy.

34. No development shall take place until a detailed noise mitigation scheme has been submitted to and approved in writing by the Local Planning Authority. The mitigation scheme shall include details of all embedded and secondary mitigation detailed in Chapter 15 of the Environmental Statement (the noise reports ref: 70056211-WSP-EGN-AS-RP-LE-00007) & the Supplementary statement (ref: 70056211-WSP-EGN-AS-RP-LE-00013), including detailed specification for the:

- o Quiet Road surface proposed on the full length of road
- o 2m barrier running from the new roundabout at Shelton to Holyhead Road
- o 2m barrier along road north of Shelton Gardens
- o 2m high barrier to the western end from the A5 Churncote roundabout to Holyhead Road
- o 2m barrier on southern side of the Proposed Scheme carriageways to the east of Holyhead Road between the proposed B4380 Holyhead Road Roundabout and the Shelton Rough River Severn Viaduct.
- o 2m barrier on south between A5 Churncote roundabout and Little Oxon Lane
- o The south side of the parapet on the Shelton Rough River Severn Viaduct shall have a solid structure of 1.5m height.
- o Noise bunds and barriers
- o Maintenance responsibilities for mitigation

The development shall be carried out in accordance with the approved details and shall be completed prior to the opening of the road and be retained thereafter.

Reason: In the interest of the amenity of the occupants of surrounding sensitive properties in accordance with Policy CS6.

35. No development shall take place until full details of all bridges, structures, underpasses, bridge wing walls, abutments and crossings have been submitted to and approved in writing by the Local Planning Authority. Such details shall include information on the colours and treatment of all surfaces, finishes and textures associated with these elements (e.g. railings, wing walls, side walls of underpass) as well as exact clearance heights. The bridges, structures, underpasses, bridge wing walls, abutments and crossings shall thereafter be constructed in accordance with the approved details.

Reason: In the interests of public safety and to ensure the appearance of the development is acceptable having regard to policies CS6 "Sustainable Design and Development Principles" of the Shropshire Core Strategy MD2 "Sustainable Design" and MD8 "Infrastructure Provision" of the Shropshire Council Site Allocations and Management of Development (SAMDev) Plan.

36. No development shall commence until full construction details of the proposed pedestrian and cycleway, footpaths and Bridleway as indicated on the approved drawings have been submitted to and approved in writing by the Local Planning Authority. Such details shall include:

- o Construction and surfacing details;
- o Drainage proposals;
- o Lighting (where appropriate);
- o Controlled & uncontrolled crossing facilities along the routes and
- o Measures to control access and usage.

The pedestrian and cycleway, footpaths and bridleways shall not be brought into use until the approved details have been implemented in full unless otherwise agreed in writing with the Local Planning Authority. These facilities shall be made available for use prior to the first use of the development.

Reason: In the interests of public safety and to ensure the appearance of the development is acceptable having regard to policies CS6 "Sustainable Design and Development Principles" of the Shropshire Core Strategy and MD2 "Sustainable Design" of the Shropshire Council Site Allocations and Management of Development (SAMDev) Plan.

37. No development shall take place until details of the bunds for noise mitigation and landscaping to be constructed along the boundaries of the development have been submitted to and approved in writing by the Local Planning Authority. Such details shall include appropriate cross sections of the bunds and include details of the location, size and height of the bund as well as details of the proposed materials and method of construction. Following the construction of the bunds they shall be landscaped and maintained in accordance with the details approved pursuant to Condition 14. The development shall be carried out in accordance with the approved details and retained for the lifetime of the development.

Reason In the interests of visual amenity and to ensure compliance with Policies SC6 "Sustainable Design and Development Principles" of the Shropshire Core Strategy, MD2 "Sustainable Design" and MD8 "Infrastructure Provision" of the Shropshire Council Site Allocations and Management of Development (SAMDev) Plan.

38. Prior to the commencement of development details of the temporary measures to maintain designated and permissive Rights of Way that are affected by the construction work shall be submitted to and approved in writing by the Local Planning Authority. The approved scheme shall subsequently be implemented for the duration of construction works.

Reason: In the interests of highway safety and to safeguard the amenities of the locality pursuant to Policies SC6 "Sustainable Design and Development Principles", SC17 "Environmental Networks" of the Shropshire Core Strategy, and MD12 "Natural Environment " of the Shropshire Council Site Allocations and Management of Development (SAMDev) Plan.

39. Prior to commencement of the development, full engineering details of the proposed improvements to the junction of Harlescott Lane/A528 shall be submitted to and approved in writing by the Local Planning Authority. The scheme shall be fully implemented in accordance with approved details prior to the opening of the hereby permitted road to the public.

Reason: In the interest of highway safety and to avoid congestion in the surrounding area in accordance with Policy CS8.

40. a. Notwithstanding submitted Table 5 - Highway Mitigation Summary contained within Transport Technical Note TTN00009 dated 22nd August 2023 no development shall take place, until details of the proposed Monitor and Manage Strategy including an implementation timetable shall be submitted to and approved in writing by the Local Planning Authority. The Monitor and Manage Strategy shall set out proposals, including locations and timing of surveys and trigger points for intervention in order to monitor the Highway network during and post construction.

b. The Monitor and Manage Plan shall be implemented in accordance with the approved details. Reports demonstrating ongoing monitoring shall be submitted annually to Local Planning Authority for approval for a period of ten years from the development being brought into use.

Reason: In the interest of highway safety and to avoid congestion in the surrounding area in accordance with Policy CS8.

41. No development shall commence until the Carbon Assessment Plan has been submitted for approval to the Local Planning Authority. The Carbon Assessment Plan shall include in its scope the built design, construction phase impacts and future use scenarios for the project and how the scheme's residual impact will be offset by 2050 through a hierarchy of measures that prioritises delivery of measures locally in Shropshire. Particular attention should also be paid to minimising the release of carbon embodied in the vegetation cleared from the route. Development shall not commence until the Carbon assessment plan has been approved in writing by the Local Planning Authority. The development shall be carried out in accordance with the approved Carbon Assessment Plan.

Reason: To allow the Council to meet its declared climate change objectives in accordance with Policies SC6 "Sustainable Design and Development Principles" of the Shropshire Core Strategy, MD2 "Sustainable Design" and MD8 "Infrastructure Provision" of the Shropshire Council Site Allocations and Management of Development (SAMDev) Plan.

42. A road drainage management plan, including management responsibilities and maintenance schedules for the section of the road through source protection zones in Shelton, shall be submitted to and approved by the Local Planning Authority in advance of the opening of the road. The plan will be developed in consultation with Severn Trent and the Environment Agency. The plan will include:

- o Description and location of specific assets to be monitored and maintained. Aims and objectives of management.
- o Methodology for maintenance plan.
- o Monitoring schedule.
- o Details of the body or organisation responsible for management of the plan.

- o Remedial work arrangements.
- o Stakeholder involvement and reporting regime.

The development shall be carried out in accordance with the approved details and implemented in full for the lifetime of the road.

Reason: To ensure that that the Source Protection Zone is not compromised in accordance with Policy CS18.

43. An emergency response plan, for the section of the road through Source Protection Zones 1 and 2, shall be submitted to and approved in writing by the Local Planning Authority in consultation with Severn Trent Water Ltd and the Environment Agency in advance of the opening of the road. The approved emergency response plan will be implemented in the event of any accident leading to a pollution incident covering both rapid clean up measures as well as considering related monitoring, investigatory and other remedial actions.

Reason: To ensure that that the Drinking Water Protection Area (including the Source Protection Zone) is not compromised in accordance with Policy CS18.

44. Where the use of soakaways to drain the public highway are utilised, no development within the relevant phase of the development, as set out in the approved Phasing Plan required under condition 3 shall take place until infiltration testing in line with BRE Digest 365 and associated soakaway designs capable of attenuating all flows up to and including the 1 in 100 year return period and 40% climate change allowance has been submitted to and approved in writing by the Local Planning Authority. The approved scheme shall be fully implemented before the development is brought into use.

Reason: To ensure satisfactory drainage of the site and to avoid flooding in accordance with Policy CS18.

45. No development approved by this permission shall be commenced until a scheme for the provision and implementation of compensatory flood storage works has been submitted to and approved in writing by the Local Planning Authority. The scheme shall be implemented in accordance with Annex B and Annex C of Supplementary Appendix 17.2: Flood Risk Assessment Addendum (PROJECT NO. 70056211, REF. NO. 70056211-WSP-EGN-AS-RP-LE-00013), including storage works immediately to the north of the highway embankment within the Alkmund Park Stream floodplain and adjacent to the Shelton Rough River Severn Viaduct on the eastern bank.

The scheme shall be designed to allow for fish passage back to the river channel; include for maintenance arrangements and provide fluvial flood risk betterment in events up to and including the design 1% AEP with climate change floodplain. Thereafter the scheme shall be implemented and maintained in accordance with the approved details.



Reason: To reduce fluvial flood risk and provide flood risk betterment in accordance with Policy CS18.

46. There shall be no storage of any materials, including soil, or raising of ground levels (other than those on approved plans), within the design 1% AEP with climate change floodplain, as indicated within the Flood Risk Assessment.

Reason: To ensure that there will be no increased risk of fluvial flooding, impedance of flood flows and/or reduction of flood storage capacity in accordance with Policy CS18.

47. There must be no new buildings, structures (including gates, walls and fences) or raised ground levels within the buffer zone edge of the watercourse of the River Severn, inside or along the boundary of the site.

Reason: To maintain access to the watercourse for maintenance or improvements and provide for overland flood flows in accordance with Policy CS18.

48. Before the new sections of road hereby approved are brought into use details of all proposed lighting to be implemented as part of the development (including street lighting and that associated with the bridges, underpasses and other circulation areas, etc) shall be submitted to and approved in writing by the Local Planning Authority. Thereafter the lighting shall be implemented and carried out in full accordance with the approved details prior to the development being brought into use.

Reason: To ensure that any lighting is the minimum necessary for its purpose in accordance with Policies SC6 "Sustainable Design and Development Principles" of the Shropshire Core Strategy, MD2 "Sustainable Design" and MD8 "Infrastructure Provision" of the Shropshire Council Site Allocations and Management of Development (SAMDev) Plan.

49. Prior to the first use of the road, a landscape habitat and wildlife features (including badger fencing) management and monitoring plan shall be submitted to, and approved in writing by, the Local Planning Authority. The plan shall include:

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

j) The financial and legal means through which the plan will be implemented.

The development shall be carried out in accordance with the approved details prior to first use of the development.

Reason: To secure the long-term management of landscaping, habitats and features. in accordance with policies SC6 "Sustainable Design and Development Principles", SC17 "Environmental Networks" of the Shropshire Core Strategy, and MD12 "Natural Environment " of the Shropshire Council Site Allocations and Management of Development (SAMDev) Plan and section 180(d) of the NPPF.

50. Notwithstanding the information on bat roost enhancement detailed in section 4.4 of SEI Jan 23 Appendix 1.H plus indicative locations for bat boxes as shown on SEI Jan 2023 Appendix 1.U, prior to the first use of the development, 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 50 bat roosting boxes or bat roosting features (ie BrandenBark TM) suitable for crevice dwelling bat species.
- A minimum of 50 nest boxes suitable for a variety of bird species recorded in association with the habitats present including (for instance) stock dove, tawny owl, kestrel, tit species etc.

The boxes / roosting opportunities 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 mitigation and enhancement for bats and birds in accordance with MD12, CS17 and section 180 of the NPPF.

51. A 10 (ten) year landscape management plan, including long term design objectives, management responsibilities and maintenance schedules for all landscape, woodland and ecological mitigation areas, shall be submitted to and approved by the Local Planning Authority prior to the opening of the new sections of road hereby approved. The management plan shall be implemented in accordance with the approved details.

Reason: To ensure appropriate landscaping of the site in accordance with Policies CS6 and MD2 of the development plan.

52. No newly constructed part of the road shall be opened for traffic until all parts of the newly constructed road are complete and available for use unless a phasing programme for completion of the road is submitted and approved in writing by the Local Planning Authority. Such phasing plan shall include: A timetable for the opening of all sections of the road; Transport modelling of the impact of opening phases of the road and A layout plan and safety audit for any interim junction arrangements. The development shall be carried out in accordance with the approved details.

Reason: In the interests of highway safety and to safeguard the amenities of the locality pursuant to Policies SC6 "Sustainable Design and Development Principles", SC17 "Environmental Networks" of the Shropshire Core Strategy, and MD12 "Natural Environment " of the Shropshire Council Site Allocations and Management of Development (SAMDev) Plan.

53. The development shall be carried out in accordance with the approved noise mitigation measures which shall be in-situ before the development is operational.

Within 6 months of the opening of the road a Noise Insulation Regulations (NIR) 1975 assessment shall be carried out to identify any properties that are eligible for insulation.

The applicant will produce and display a map showing all eligible properties that qualify under the Noise Insulation Regulations (1988).

Any properties that qualify for a NIR grant shall be informed of the noise insulation grant provisions available and insulation works should be carried out as specified in the NIR subject to consent of the property owner(s).

Reason: In the interest of the amenities of the occupants of nearby noise sensitive properties in accordance with Policy CS6.

54. If, during development, contamination not previously identified is found to be present at the site then no further development shall be carried out until the developer has submitted and received approval for a remediation strategy to the Council as Local Planning Authority detailing how this unsuspected contamination shall be dealt. Should this occur in the Shelton Source Protection Zone this will be in consultation with Severn Trent Water Ltd and the Environment Agency in addition to the LPA. The remediation strategy shall be implemented as approved.

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.

55. Prior to the first use of the road, a remediation verification report shall be submitted to and approved by the LPA. This shall include details of any unforeseen contamination encountered during construction, remedial works undertaken, validity testing and subsequent assessment of any residual risks. The verification report shall also include details of all contamination monitoring undertaken during construction (including those identified in the Water Features Survey), any actions undertaken during construction based on the monitoring results, and details of borehole decommissioning works undertaken. Severn Trent Water Ltd and the Environment Agency shall be consulted on any verification report involving remediation work within the Shelton Source Protection Zone.

Reason: To ensure that risks from contamination 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.

56. A scheme detailing proposals for the wider signing strategy on the Local and Strategic Highway network, to include appropriate measures to reflect the phasing of the construction shall be submitted to and approved in writing by the Local Planning Authority. The scheme shall be fully implemented in accordance with approved details prior to the first use of the development.

Reason: In the interests of highway safety.

57. Prior to the opening of the development to traffic, the proposed improvement works at A5/A458 Churncote Roundabout shall be implemented in accordance with the General Arrangement drawing (Drawing No. 70056211-WSP-GEN-DR-CH-01013 to 01016).

Reason; To ensure the A5 and A458 trunk roads continue to serve their purpose as part of the national system of routes for through traffic in accordance with S.10(2) of the Highways Act 1980, in the interests of highway safety.

58. Agricultural operations as detailed in the Habitat Regulation Assessment should be desisted within the buffer zone comprising all fields surrounding Hencott Pool within approximately 200metres. Prior to the approved scheme being brought into use, a Final Compensation Delivery and Management Plan detailing measures to implement and monitor the approved mitigation shall be submitted to and approved by the Local Planning Authority and agreed with relevant parties in accordance with the S106 Agreement. The mitigation shall apply for a period of up to 80 years, subject to review every 5 years.

Reason: To ensure no long-term significant effect on the integrity of the Midlands Meres and Mosses Ramsar Phase 2.

59. Nitrogen dioxide monitoring shall be installed prior to construction and be maintained for two full calendar year post commencement of the operational phase. Monitoring locations shall be submitted to and approved in writing by the LPA and shall cover a representative sample of the area of impact. Monitoring shall be in place prior to commencement of construction activities to capture any impact of construction vehicle movements in any areas of interest and carried out in accordance with the approved details.

Reason: to ensure impacts from the development are captured and fed into Local Air Quality Management duties to understand any need for additional measures to fulfil statutory duties in respect of this regime.

60. The landscaping details approved in condition 14 shall be completed in accordance with the following: - a) All hard and soft landscaping works shall be completed in full accordance with the approved scheme, within the first planting season following completion of the development hereby approved, or in accordance with a programme agreed with the Local Planning Authority. b) All trees, shrubs and hedge plants supplied shall comply with the requirements of British Standard 3936, Specification for Nursery Stock. All pre-planting site preparation, planting and post-planting maintenance works shall be carried out in accordance with the requirements of British Standard 4428(1989) Code of Practice for General Landscape Operations (excluding hard surfaces). c) All new tree plantings shall be positioned in accordance with the requirements of Table A.1 of BS5837:2012 Trees in Relation to Design, Demolition and Construction (Recommendations) d) Any trees, shrubs or hedges planted in accordance with this condition which are removed, die, become severely damaged or become seriously diseased within five years of planting shall be replaced within the next planting season by trees, shrubs or hedging plants of similar size and species to those originally required to be planted.

Reason: To ensure appropriate landscaping of the site having regard to SC6 "Sustainable Design and Development Principles", SC17 "Environmental Networks" of the Shropshire Core Strategy, and MD12 "Natural Environment " of the Shropshire Council Site Allocations and Management of Development (SAMDev) Plan.

61. No development shall take place until the applicant, or their agents or successors in title, has completed the ongoing programme of archaeological evaluation works in accordance with the previously agreed Written Scheme of Investigation (WSI) which was submitted by the applicant and approved by the Local Planning Authority.

Works shall be carried out in accordance with the programme and methodology set out in the approved WSI. A written record of any archaeological evaluation works undertaken shall be submitted to and approved in writing by the Local Planning Authority within three months of the completion of the archaeological evaluation works unless an alternative timescale for submission of the report is first agreed in writing with the Local Planning Authority

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

62. a) Following the completion of the archaeological evaluation works, no development shall take place until the applicant, or their agents or successors in title, has completed a programme of archaeological mitigation works comprising, but not limited to, the archaeological excavation and recording and/or preservation in-situ, where warranted and feasible, of areas of archaeological significance identified from the preceding archaeological evaluation works. These works are to be carried out in accordance with a agreed Written Scheme of Investigation (WSI), which has been submitted to and approved by the local planning authority in writing.

b) No phase of the development hereby permitted shall be brought into use until the archaeological site investigation and post-investigation assessment (including provision for analysis, publication and dissemination of results and archive deposition) for that Phase has

been completed and approved in writing by the Local Planning Authority. The archaeological site investigation and post-investigation assessment will be undertaken in accordance with the programme set out in the WSI approved under condition 62 'archaeological mitigation works'.

Reason: To ensure that the archaeological and historic interest of the site is safeguarded and recorded in accordance with Policy MD13 of the Shropshire SAMDev Plan and Paragraph 211 the NPPF (Dec 2024); and, to deliver the mitigation as identified in Chapter 11 of the Environmental Statement (Feb 2021) and the Environmental Statement Addendum (August 2021) pursuant to the extant scheme.

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

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

### 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 land and premises referred to in this planning permission are the subject of an Agreement under Section 106 of the Town and Country Planning Act 1990. The S106 may include the requirement for a financial contribution and the cost of this should be factored in before commencing the development. By signing a S106 agreement you are legally obliged to comply with its contents, irrespective of any changes to Planning Policy or Legislation.

3. The applicant is reminded that confirmation of a Diversion Order for the public right of way shall be obtained prior to development being commenced. The commencement of development prior to such confirmation would be likely to lead to legal complications and/or possible infringement of existing public rights and thus conflict with other legislation.

4. The applicant is reminded that confirmation of a Stopping Up/Extinguishment Order for public right of way/highway shall be obtained prior to the development being commenced. The commencement of development prior to such confirmation would be likely to lead to legal complications and/or possible infringement of existing public rights and thus conflict with other legislation.

5. Does your development require utility connections?  
Any works/activities carried out either by, or on behalf of, the developer, whether they are located on, or affecting a prospectively maintainable highway, as defined under Section 87 of the New Roads and Street Works Act 1991, or on or affecting the public highway, shall be co-ordinated under the requirements of the New Roads and Street Works Act (NRSWA) 1991 and

the Traffic Management Act (TMA) 2004 and licensed accordingly by the Street/Highway Authority in order to secure the expeditious movement of traffic by minimising disruption to users of the highway network in Shropshire. Developers must also inform undertakers of their proposed works, to jointly identify any affected apparatus, and to agree diversion or protection measures and corresponding payment.

Any such works or activities commissioned by the developer and particularly those involving the connection of any utility to the site, shall be co-ordinated by them in liaison with Shropshire Council Street Works Team. To allow effective co-ordination contact must be made with the Street Works Team at least three months in advance of the commencement of the works and any subsequent applications must be in line with the noticing requirements of the NRSWA 1991, TMA 2004 and Highways Act 1980. The developer must particularly ensure that statutory undertaker connections/supplies to the site are co-ordinated to take place wherever possible at the same time and using the same Traffic Management measures.

For more information please contact [Streetworks@shropshire.gov.uk](mailto:Streetworks@shropshire.gov.uk) or <https://shropshire.gov.uk/roads-and-highways/application-forms-and-charges/>

Reason: In order to minimise disruption to road users, be they pedestrians or vehicular traffic, under the requirements of the New Roads and Street Works Act 1991 and the Traffic Management Act 2004. In order to satisfy the licensing requirements of the Highways Act 1980.

6. The discharge of surface water to a water course requires the prior consent of the ENVIRONMENT AGENCY under the Control of Pollution Act 1974 and the Water Act 1991.

7. It is recommended that the applicant investigate ways of incorporating techniques of 'Sustainable Urban Drainage' into this development. These will help to minimise the impact of the development with features such as porous parking, detention ponds, grass swales and infiltration trenches. This will maintain the recharge of groundwater resources, reduce large fluctuations in river flows during rainfall and stop pollutants from road runoff from entering watercourses. Further information can be obtained from the Environment Agency.

8. Invasive species

[Himalayan balsam / Japanese knotweed / giant hogweed / cotoneaster species] is listed on Schedule 9 of the Wildlife and Countryside Act 1981 (as amended). It is a criminal offence to allow this species to be released into, or cause it to grow, in the wild and landowners should not allow it to spread onto neighbouring land, although they may not be obliged to remove or treat it on their own land.

Treatment of [Himalayan balsam / Japanese knotweed / giant hogweed / cotoneaster species] should be carried out by an experienced contractor and development cannot commence until the plant has been completely removed from the site.

Use of herbicides alongside water courses should only be undertaken by experienced, licensed contractors following advice from the Environment Agency.

[Himalayan balsam / Japanese knotweed / giant hogweed / cotoneaster species] is classed as a controlled waste and should be disposed of by an experienced contractor to an approved

waste site in accordance with the Environmental Protection Act (Duty of Care) Regulations 1991).

9. 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.



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.]

#### 10. Badgers

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

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

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

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

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

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

#### 12. Bats

All bat species found in the U.K. are protected under the Habitats Directive 1992, The Conservation of Habitats and Species Regulations 2017 and the Wildlife and Countryside Act 1981 (as amended).

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

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

[Any chemical treatment of timbers should not take place between the beginning of October and the end of March and no pointing or repairs of any gaps or crevices which cannot be easily seen to be empty should take place between the beginning of October and the first week in April, to minimise the possibility of incarcerating bats.]

[If timber treatment is being used then the Natural England's Technical Information Note 092: Bats and timber treatment products (2nd edition) should be consulted and a suitable 'bat safe' product should be used (see <http://webarchive.nationalarchives.gov.uk/20160913000001/http://publications.naturalengland.org.uk/publication/31005>).]

[Breathable roofing membranes should not be used as it produces extremes of humidity and bats can become entangled in the fibres. Traditional hessian reinforced bitumen felt should be chosen.]

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

14. 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.

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Location: Street Record, Welshpool Road, Bicton Heath, Shrewsbury, Shropshire



Committee and date

Northern Planning Committee

21<sup>st</sup> January 2025

## SCHEDULE OF APPEALS AS AT COMMITTEE 21 JANUARY 2025

<b>LPA reference</b>	24/01805/FUL
<b>Appeal against</b>	Appeal Against Conditions Imposed
<b>Committee or Del. Decision</b>	Delegated Decision
<b>Appellant</b>	Mr Anthony Paterson
<b>Proposal</b>	Change of use from restaurant to bar/ venue
<b>Location</b>	River Thai Restaurant & Bar Smithfield Road Shrewsbury
<b>Date of appeal</b>	07.10.2024
<b>Appeal method</b>	Written Representations
<b>Date site visit</b>	
<b>Date of appeal decision</b>	
<b>Costs awarded</b>	
<b>Appeal decision</b>	

<b>LPA reference</b>	24/00748/OUT
<b>Appeal against</b>	Refusal
<b>Committee or Del. Decision</b>	Delegated
<b>Appellant</b>	JS Construction
<b>Proposal</b>	Outline application for the erection of six dwellings
<b>Location</b>	Proposed Residential Development South Of The Parklands Cockshutt Shropshire
<b>Date of appeal</b>	06.11.2024
<b>Appeal method</b>	Written Reps
<b>Date site visit</b>	
<b>Date of appeal decision</b>	
<b>Costs awarded</b>	
<b>Appeal decision</b>	

<b>LPA reference</b>	24/01005/FUL
<b>Appeal against</b>	Refusal
<b>Committee or Del. Decision</b>	Delegated
<b>Appellant</b>	Ms Kathleen Roberts
<b>Proposal</b>	Change of use of land to a mixed use for the keeping of horses (existing) and use as a residential caravan site for an extended Gypsy family, with a total of 4 No. caravans, including the laying of hardstanding and erection of 4 No. amenity buildings
<b>Location</b>	Caravan At Heartlands Farm Northwood Ellesmere
<b>Date of appeal</b>	2.1.25
<b>Appeal method</b>	Written Reps
<b>Date site visit</b>	
<b>Date of appeal decision</b>	
<b>Costs awarded</b>	
<b>Appeal decision</b>	

<b>LPA reference</b>	24/01015/FUL
<b>Appeal against</b>	Refusal
<b>Committee or Del. Decision</b>	Delegated
<b>Appellant</b>	Mr W Maguire
<b>Proposal</b>	Erection of one detached dwelling with further detached garage/pool building and detached stables block and change of use of adjacent land to private amenity land together with erection of boundary walling and fencing and the creation of one new residential access and one new field access.
<b>Location</b>	Proposed Residential Development Land To The South Of Uffington Shrewsbury
<b>Date of appeal</b>	15.11.2024
<b>Appeal method</b>	Written Reps
<b>Date site visit</b>	
<b>Date of appeal decision</b>	
<b>Costs awarded</b>	
<b>Appeal decision</b>	

## APPEALS DETERMINED

<b>LPA reference</b>	23/04121/FUL
<b>Appeal against</b>	Appeal Against Refusal
<b>Committee or Del. Decision</b>	Delegated Decision
<b>Appellant</b>	Mr Mark Knight
<b>Proposal</b>	Erection of end of terrace two bedroom dwelling with off street parking (Resubmission)
<b>Location</b>	17 New Park Road Shrewsbury
<b>Date of appeal</b>	08.05.2024
<b>Appeal method</b>	Written Representations
<b>Date site visit</b>	01.10.2024
<b>Date of appeal decision</b>	13.11.2024
<b>Costs awarded</b>	
<b>Appeal decision</b>	<b>DISMISSED</b>

<b>LPA reference</b>	24/00379/CPE
<b>Appeal against</b>	Refusal to Grant Certificate of Lawful Use or Development
<b>Committee or Del. Decision</b>	Delegated Decision
<b>Appellant</b>	Mr K Niblett
<b>Proposal</b>	Lawful development certificate for existing use of land as C3 residential use
<b>Location</b>	Site Of Former Green Lane Cottage (Land North Of Greenfields And Hydrotherapy Centre) Green Lane Bings Heath Astley
<b>Date of appeal</b>	10.06.2024
<b>Appeal method</b>	Inquiry
<b>Date site visit</b>	Pre Inquiry Accompanied Site Visit 14.10.2024
<b>Date of appeal decision</b>	18.11.2024
<b>Costs awarded</b>	
<b>Appeal decision</b>	<b>DISMISSED</b>

<b>LPA reference</b>	23/01886/FUL
<b>Appeal against</b>	Refusal
<b>Committee or Del. Decision</b>	Delegated
<b>Appellant</b>	Mrs Lynne Ankers
<b>Proposal</b>	Application under Section 73A of the Town And Country Planning Act 1990 for the change of use of land from agricultural to equestrian use with the siting of two mobile stables and storage (already in situ) Resubmission
<b>Location</b>	Land North East Of The Old Shop Brynore Dudleston Heath
<b>Date of appeal</b>	02.04.2024
<b>Appeal method</b>	Written Representations
<b>Date site visit</b>	
<b>Date of appeal decision</b>	20.11.2024
<b>Costs awarded</b>	Refused
<b>Appeal decision</b>	Appeal Dismissed

<b>LPA reference</b>	23/02473/FUL
<b>Appeal against</b>	Refusal
<b>Committee or Del. Decision</b>	Delegated
<b>Appellant</b>	Mr Michael McDonagh
<b>Proposal</b>	Erection of stables, tackroom and foodstore, manege, yard and access
<b>Location</b>	Proposed Stables And Premises North Of Hengoed, Oswestry
<b>Date of appeal</b>	20.02.2024
<b>Appeal method</b>	Written Representations
<b>Date site visit</b>	
<b>Date of appeal decision</b>	20.11.2024
<b>Costs awarded</b>	Refused
<b>Appeal decision</b>	Appeal Dismissed

<b>LPA reference</b>	23/05025/FUL
<b>Appeal against</b>	Refusal
<b>Committee or Del. Decision</b>	Delegated
<b>Appellant</b>	Mr Mark Sheppard
<b>Proposal</b>	Proposed change of use of existing holiday lodges (C1/sui generis) to residential dwellings (C3) and associated works
<b>Location</b>	Kinnerley Road Lodges Kinnerley Road Kinnerley Shropshire
<b>Date of appeal</b>	20.06.2024
<b>Appeal method</b>	Written Representations
<b>Date site visit</b>	1.10.24
<b>Date of appeal decision</b>	13.11.2024
<b>Costs awarded</b>	
<b>Appeal decision</b>	Appeal Dismissed

<b>LPA reference</b>	23/01573/FUL
<b>Appeal against</b>	Refusal
<b>Committee or Del. Decision</b>	Delegated
<b>Appellant</b>	Mr And Mrs S And R Jones
<b>Proposal</b>	Proposed conversion of a World War II munitions bunker to a holiday let accommodation with associated parking
<b>Location</b>	Proposed Storage Building Conversion North West Of Shrawardine Shrewsbury Shropshire
<b>Date of appeal</b>	27.03.2024
<b>Appeal method</b>	Written Representations
<b>Date site visit</b>	27.6.24
<b>Date of appeal decision</b>	27.11.24
<b>Costs awarded</b>	
<b>Appeal decision</b>	Appeal Dismissed

<b>LPA reference</b>	24/00747/FUL
<b>Appeal against</b>	Refusal
<b>Committee or Del. Decision</b>	Delegated
<b>Appellant</b>	Mr And Mrs Lansdale
<b>Proposal</b>	Two storey rear extension
<b>Location</b>	Fernleigh High Street Clive Shrewsbury
<b>Date of appeal</b>	20.08.2024
<b>Appeal method</b>	Written Representations
<b>Date site visit</b>	31.10.24
<b>Date of appeal decision</b>	15.11.24
<b>Costs awarded</b>	
<b>Appeal decision</b>	Appeal Dismissed

<b>LPA reference</b>	23/04441/FUL
<b>Appeal against</b>	Refusal
<b>Committee or Del. Decision</b>	Committee
<b>Appellant</b>	Mr Paul Archer
<b>Proposal</b>	Proposed Redevelopment of Site of Former Transport Cafe to provide new cafe and facilities building with associated landscape works, trailer and car parking and servicing areas.
<b>Location</b>	Former Anvil Cafe Sandford Whitchurch
<b>Date of appeal</b>	27.02.2024
<b>Appeal method</b>	Written Representations
<b>Date site visit</b>	11.07.2024
<b>Date of appeal decision</b>	02.12.2024
<b>Costs awarded</b>	
<b>Appeal decision</b>	Appeal Dismissed



<b>LPA reference</b>	24/01572/FUL
<b>Appeal against</b>	Refusal
<b>Committee or Del. Decision</b>	Delegated
<b>Appellant</b>	Hood
<b>Proposal</b>	Erection of a first floor side extension and a front porch
<b>Location</b>	20 Longden Avenue Shrewsbury Shropshire SY3 7RJ
<b>Date of appeal</b>	11.09.2024
<b>Appeal method</b>	Written Representations
<b>Date site visit</b>	13.12.24
<b>Date of appeal decision</b>	31.12.24
<b>Costs awarded</b>	
<b>Appeal decision</b>	<b>Appeal Dismissed</b>

<b>LPA reference</b>	24/01704/FUL
<b>Appeal against</b>	Refusal
<b>Committee or Del. Decision</b>	Delegated
<b>Appellant</b>	Mr Ian Putnam
<b>Proposal</b>	Replacement front windows (Article 4 Direction).
<b>Location</b>	12A Primrose Terrace St Michaels Street Shrewsbury Shropshire SY1 2EY
<b>Date of appeal</b>	23.08.2024
<b>Appeal method</b>	Written Representations
<b>Date site visit</b>	13.12.24
<b>Date of appeal decision</b>	31.12.24
<b>Costs awarded</b>	
<b>Appeal decision</b>	<b>Appeal Dismissed</b>

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## Appeal Decision

Site visit made on 1 October 2024

**by J Smith MRTPI**

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

**Decision date: 13 November 2024**

**Appeal Ref: APP/L3245/W/24/3344001**

**17 New Park Road, Shrewsbury, Shropshire SY1 2RS**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant planning permission.
- The appeal is made by Mr Mark Knight against the decision of Shropshire Council.
- The application Ref is 23/04121/FUL.
- The development proposed is new end of terrace 2 bedroom dwelling with off street parking.

### Decision

1. The appeal is dismissed.

### Preliminary Matters

2. Since the proposal relates to the setting of a listed building, I have had special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses, as set out in Section 66 of the Planning (Listed Buildings and Conservation Areas) Act 1990. The proposal also relates to land within a conservation area. As such, I have paid special attention to the desirability of preserving or enhancing the character or appearance of that area, in accordance with Section 72 of the (Listed Buildings and Conservation Areas) Act 1990.

### Main Issues

3. The main issue is the effect of the proposal on the Grade II listed building, 'Canal Tavern Public House and Attached Outbuilding Range', including its setting; and the character and appearance of the Shrewsbury Conservation Area.

### Reasons

4. The appeal site lies at the end of a row of terraced properties facing New Park Road. It lies adjacent to the Canal Tavern House, a detached Grade II listed building which is angled away from, and set slightly behind, the appeal site. The Canal Tavern Public House is a Grade II listed building located behind the appeal site. According to the statutory list description, the building was constructed during the 19<sup>th</sup> Century with whitewashed brick and Welsh slate. Whilst the former public house has been latterly converted into residential accommodation, it is a building which retains historic architectural elements and local materials typical of buildings of this period. It is these factors, along with the main building's three-storey height and the open space generally to the front, which contribute to its historic and architectural significance.

5. New Park Road and the streets in the wider vicinity host a strong form and collection of terraced rows. For the most part, the properties which make up these mostly residential terraced rows are constructed of red brick and are generally two stories tall, however, three storey terraces are found within the Shrewsbury Conservation Area (CA). Additionally, sited amongst these residential buildings are several prominent buildings which support a community function, such as a religious building and a public house. These are typically taller than their residential neighbouring properties and are a focus point to these blocks of terraces.
6. As such, there are a mix of different buildings in terms of their style and age within the CA. However, the appeal site, the modern terraces which it is situated with and the Canal Tavern exhibit an eminently traditional style and contribute to the defining characteristics and significance of the CA as a whole. The uniformity and traditional style of the terraces, despite their more modern construction, contributes to the CA. In this context, the Canal Tavern is an important building which is readily appreciable due to the spaciousness in front of it and the sympathetic style, distance and subservience of the terraced dwellings.
7. The appeal site contributes to the setting of the listed building as it promotes a sense of openness between the building and the adjacent terraced properties. Furthermore, combined with the open space provided by the appeal site, the difference in height between the adjacent terraced row and the listed building allows the building to be experienced and appreciated in this area of the CA without competition.
8. The proposal would create an additional terraced property onto an existing modern terrace row with a tall timber fence located next to the boundary with the listed building. This would be limited and only conceal a small area of the listed buildings frontage when passing the appeal site. However, this would close the spacious gap between the row of terraced buildings and the Grade II listed building. This reduction in space would be highly visible from wider vantage points within the CA. As such, the Canal Tavern would appear confined and the prominence of the building would be diminished. This would lead to a sense of visual competition with the Canal Tavern and its setting. The proposal would therefore fail to preserve the special interest of the listed building through harm to its setting.
9. For the reasons set out above, there would also be harm to the CA as obscuring the view of the listed building would detract from its character. In addition, the front elevation of the proposed dwelling would contain a ground floor window which would serve a WC. Other properties in the terrace row do not have this feature. As such, its installation would disrupt the symmetry found through the terraced block. It would also have an awkward relationship to the front door and other front window in this elevation. As such, combined with the loss of the spacious gap, the building would cause harm to the character and appearance of the CA. An appropriate palette of materials would not overcome this.
10. The appellant has documented throughout their evidence that a row of terraced properties were located on a similar footprint to that of the newly built terraced row. These properties appear to have been demolished before the listing of the Grade II Canal Tavern. Whilst I understand the claim that a

historic row of terraces would have been located in a similar position, this was not the case when the Canal Tavern was given its Grade II listed status. As such, the Canal Tavern would likely have been experienced with an element of open space around it. Therefore, I have ascribed this matter limited weight in my decision.

11. The appellant notes that the existing fence, which was included in this application, could be changed to an alternative boundary treatment in an effort to address the harm identified by the Council. Yet, no alternative boundary treatments have been suggested. I accept that this matter could be the subject of a condition should the appeal be allowed. Nevertheless, it is not just the boundary treatment, but the dwelling itself, which causes harm to the setting of nearby heritage asset and the character and appearance of the CA. Therefore, I have given this matter limited weight.
12. Given the above, I conclude that the proposal would not preserve the setting of the Grade II listed building and the character and appearance of the Shrewsbury Conservation Area. The proposal would fail to satisfy the requirements of the Act, the Framework and would conflict with Policies CS6 and CS17 of the Shropshire Local Development Framework: Adopted Core Strategy 2011 (CS) and Policies MD2 and MD13 of the Shropshire Council Site Allocations and Management of Development Plan 2015 (SAMDP). Collectively, these policies seek for development to protect, conserve and enhance the built and historic environment, ensuring that the proposal does not affect the visual function of these assets and their surroundings. These proposals must also be appropriate in density and pattern, taking the local context and character into account, amongst other things.

### **Other Matters**

13. The appellant has brought my attention to a previously approved scheme to the front of the Canal Tavern, for the erection of four, three storey dwellings which it is argued would be of a greater harm to the setting of the listed building than the appeal scheme. Due to the absence of evidence before me, I am unable to understand the considerations in that case which led to consent being granted. Nevertheless, even with this development taking place, it does not alter my view that the appeal scheme would cause harm to the designated heritage assets.
14. The appellant notes that there was a title dispute which meant that the newly constructed terraced row had to be limited until this was resolved. It is contended that it is likely that planning permission would have been granted for an additional dwelling on the eastern end of the building if it had been included in that application. Whilst one may speculate on such an outcome, as this unit was not proposed in the application, there is no fallback position in this regard. This has had no bearing on my decision.
15. The proposal would have no unacceptable effect on flooding or flood risk. Furthermore, the proposed dwelling would have adequate external amenity space similar to the other terraces in this row. However, these matters neither weigh for or against the development.

## **Planning Balance**

16. The harm to the setting of the listed building and the character or appearance of the CA as a result of the proposed development would be less than substantial in the terms of the National Planning Policy Framework (the Framework). Paragraph 199 of the Framework advises that when considering the impact of development on the significance of designated heritage assets, great weight should be given to their conservation. Paragraph 208 of the Framework sets out that in such cases, that harm should be weighed against the public benefits of the proposal.
17. The proposal would create a new dwelling within Shrewsbury which is well located to access local services and facilities. The proposal would contribute to the supply of housing in the area but as this is for a single dwelling, I attribute little weight to this benefit. It is suggested that the development would create an additional unit of affordable housing. No legal agreement has been submitted to ensure that this unit would be provided as a contribution to affordable housing and therefore there is no way of securing this benefit. This attracts very little weight in favour of the proposal.
18. The proposal would also result in construction employment and its future occupiers would use local shops, services and generate council tax receipts. I attach moderate weight to these benefits.
19. Paragraph 205 of the Framework makes it clear that even less than substantial harm to the significance of a designated heritage asset must carry great weight. Overall, the above public benefits taken together do not outweigh the harm that would be caused to the significance of the listed building or the CA.
20. Given the above, I conclude that, on balance, the proposal would fail to preserve the setting of the Grade II listed building and the character or appearance of the Shrewsbury Conservation Area. This would fail to satisfy the requirements of the Act, section 16 of the Framework, and fails to comply with policies CS6 and CS17 of the CS and SAMDP. Therefore, the proposal conflicts with the development plan and the material considerations do not indicate that the appeal should be decided other than in accordance with it.

## **Conclusion**

21. For the reasons given above, the appeal should be dismissed.

*J Smith*

INSPECTOR



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# Appeal Decision

Inquiry held on 15 October 2024

**by M Madge Dip TP MA MRTPI**

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

**Decision date: 18 November 2024**

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**Appeal Ref: APP/L3245/X/24/3345984**

**Site of former Green Lane Cottage (Land north of Greenfields), Green Lane, Bings Heath, Shropshire SY4 4BY**

- The appeal is made under section 195 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant a certificate of lawful use or development (LDC).
  - The appeal is made by Mr Kevin Niblett against the decision of Shropshire Council.
  - The application ref 24/00379/CPE, dated 31 January 2024, was refused by notice dated 25 March 2024.
  - The application was made under section 191(1)(a) of the Town and Country Planning Act 1990 as amended.
  - The use for which a certificate of lawful use or development is sought is C3 residential use.
- 

## Decision

1. The appeal is dismissed.

## Procedural Matters

2. A case management conference was held on 2 August 2024. It resolved that a Pre-inquiry Accompanied Site Visit (PASV) would be undertaken and that evidence at the Inquiry would be dealt with by way of round table discussion as opposed to the formal presentation of evidence and cross examination.
3. The PASV took place at 14:00 on 14 October 2024. I was accompanied on site by the appellant and Ms Jane Raymond for the Council. I was shown the remains of the cottage and associated outbuildings. Adjacent developments and land uses, along with the extent of the byway open to all traffic were also identified.
4. Nothing arose during the Inquiry to require me to re-visit the appeal site. Furthermore, I was not requested to make an inspection of the land as part of the Inquiry process. An Inquiry site visit was not therefore necessary, and one was not carried out.

## Reasons

5. The **main issue** is whether the Council's refusal to grant a lawful development certificate (LDC) was well founded.
6. In this type of appeal, the onus of proof is on the appellant and the relevant test is the balance of probability. It is therefore for the appellant to show that the C3 residential use began and continued without significant interruption for a period of 10 or more years. Any 10-year period is relevant. It may also be necessary to show that any lawful residential use accrued has not been lost.

7. Use Class C3 of the Town and Country Planning (Use Classes) Order 1987 as amended relates to buildings, or part thereof, primarily used as dwelling houses. Green Lane Cottage (the cottage), which formerly occupied the land, was clearly a building. There is no dispute that the cottage was formerly occupied for residential purposes or that the dwellinghouse had been occupied for a period of more than 10 years. The appeal parties agree the lawful use of the cottage as a Class C3 Dwellinghouse had been established more than 10 years before the application for an LDC was made and I concur.
8. A lawful use that is merely dormant or inactive could still be considered as 'existing', so long as it has not been extinguished in one of the following three ways: (i) evidence of abandonment; (ii) formation of a new planning unit; or (iii) by being superseded by a material change of use. There is no suggestion that (ii) or (iii) apply in this case. However, the cottage ceased to be occupied in April 1964 and was subsequently demolished. The appeal parties agree the matter before me is whether the lawful C3 residential use has been abandoned.

### *Legal Authorities*

9. The legal framework on the issue of abandonment sets out that the mere cessation of a use is not development. However, Lord Denning in *Hartley v MHLG* [1970] 1QB 413 found that if a building or land remains unused for a considerable time, in such circumstances that a reasonable man might conclude that the previous use had been abandoned, then the concept of abandonment applies.
10. In *Trustees of the Castell-y-Mynach Estate v SSW* [1985] JPL 40, the Court identified four criteria to be considered when determining if a use has been abandoned. The four criteria are the physical condition of the building; the period of non-use; whether there has been any intervening use; and the owner's intention as to whether to suspend the use or cease it permanently.
11. With regards to owner's intention, in *Hughes v SSETR* [2000] 80 P &CR 397, the Court of Appeal held that the test of the owner's intention should be objective, the view to be taken by a reasonable man with knowledge of all the relevant circumstances. The owner's intention shall not however be elevated to a paramount status, or conversely subordinate other relevant considerations. The weight to be attached to each of the four criteria when determining abandonment is a matter for the decision taker.
12. I have also been referred to a number of previous appeal decisions which turn on the concept of abandonment. They simply demonstrate that no one of the four criteria established in *Castell-y-Mynach* can be decisive and that each case is fact sensitive and must be decided on its own merits. The proper test and approach in deciding whether a use has been abandoned or not is that set out in *Castell-y Mynach* and *Hughes*.

### *The Evidence*

13. The appellant has provided two statutory declarations (SDs). Both are extremely detailed in terms of the provision of documentary evidence relating to how the cottage came to be demolished including the various local authorities' involvement, the actions taken by successive landowners to maintain and/or replace the cottage, maintenance of the vehicular and



pedestrian access to the land and promoting the land for residential purposes through the development plan process. The documentary evidence is not in dispute. Some of the appellant's commentary in the SDs is of a speculative nature as he could not know with any certainty why his grandfather, uncle or the local authorities took the actions they did in anything other than in general terms.

14. A third statutory declaration is provided by the appellant's mother, who is joint owner of the land. This confirms the sources of the documentation provided by the appellant and includes details of personal circumstances that would have impacted upon decisions and actions taken in respect of pursuing the necessary planning permission to reinstate a dwelling on the land.
15. The appellant's oral evidence reiterated the written evidence, taking us through in more detail what works were required by the local authority to bring the cottage into a condition fit for human habitation. He also provided further detail as to why refurbishment and improvement works to the cottage could not have been completed through permitted development rights available at the time. Predominantly, the oral evidence rested with landowners' intention and actions taken by the various local authorities.

#### *Physical Condition of the building*

16. The cottage was a modest dwelling, tenanted out by the then owner Mr John Prichard (JP), the appellant's grandfather. By January 1963 the local authority, Atcham Rural District Council (ARDC), had formed a view that the cottage was unfit for human habitation and served Notice, under s16(1) of the Housing Act 1957, on JP threatening an order of closure or demolition unless something was done to bring the Cottage to a state fit for human habitation.
17. ARDC's intervention resulted in the cessation of occupation of the cottage in April 1964 after the tenant was rehomed. A succession of planning applications and one appeal to replace the cottage or secure its extension and refurbishment were pursued by JP over the subsequent 11-year period. None were successful. Furthermore, the cottage had been demolished by the actions of others in approximately 1968.
18. There is no evidence to suggest that the various local planning authorities had regard to ARDC's intervention being the cause of the cottage being unoccupied in the determination of the four planning applications. However, in the appeal<sup>1</sup>, relating to '*the erection of a new dwelling to replace a demolished cottage*', the Inspector had regard to the former cottage being on the land, but confirms in DL5 that this, along with '*other personal*' and '*domestic experiences*', did not outweigh the policy conflict and other harms he had identified. From this it is reasonable to conclude that regard was given to other relevant considerations, including the circumstances that led to the loss of the building.
19. I saw on site that the remains of the cottage amount to low level brickwork, of between 1 and 3 brick courses, from which its external footprint can be deduced. Similar evidence of some of the internal dividing walls and a former fireplace is also evident. A surface water drain grate is visible, and brickwork of a similar appearance to that of the cottage allows the location of the former

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<sup>1</sup> APP/5360/A/75/2073 Dismissed 10 October 1975

earth closet and pigsties to be deduced. The site was somewhat overgrown, but several piles of rubble were readily identifiable, which I was told are formed from the physical remains of the cottage.

20. While the physical condition of the building is not by itself decisive of whether its use has been abandoned, in this case, there has been no building on the land for some considerable time. How the cottage came to be demolished does not change the fact that it was demolished before 1974 or that the land has been without a building for over 50 years. The demolition of the building therefore represents a new chapter in the planning history of the land as it could not be used for any purpose, other than those activities and uses that are not development.

#### *Period of non-use*

21. There has been no active residential use of the land since April 1964 when it is agreed the tenant moved out. The appellant and Council agree that the period of non-use amounts to some 60 years, which I find to be a substantial period. Furthermore, a building has not existed on the land for over 50 years. The period of non-use is not decisive of itself.

#### *Intervening use*

22. I understand that there was a brief period when the appeal site was occupied by gypsies and travellers. The owner had not authorised such occupation, nor had planning permission been granted for such a use. The appellant and Council agree that this brief, unauthorised interlude did not amount to an intervening use of the land, and I see no reason to disagree. There has therefore been no intervening use of the land in the 60 years since the C3 residential use last occurred.

#### *Owner's Intention*

23. The appeal site has been in the appellant's family since 1928. JP inherited it in 1950 and it passed to the appellant's mother and uncle in 1995. The evidence shows, at least since JP inherited it, that the cottage was occupied by a tenant.
24. JP accepted in 1963 that the cottage was unfit for human habitation and entered into a legal agreement with ARDC that the cottage could not be occupied again until the local authority confirmed it was fit for human habitation. Plans were produced to extend and improve the cottage in 1963, but these plans were not brought before the local planning authority for consideration until 1967. This was after there had been two previous refusals of planning permission to replace the cottage, firstly with two dwellings and then with a single dwelling. A fourth proposal, to erect a new dwelling to replace the cottage, was refused and dismissed on appeal. I do not doubt that all these actions demonstrate JP's intention to maintain the residential use of the land.
25. Three reasons were cited for refusing JP's planning applications and it is the appellant's contention that:
- the highway reason for refusal failed to acknowledge the legal right of access afforded to the land;

- the drainage reason could have been dealt with by condition (and did not feature on the extension and improvements scheme); and
- there would be no change of use of the land as its residential use was lawful.

While the appellant considers the reasons given for refusing all four applications to be without foundation, none of the refusals of planning permission were challenged. Judicial review may not have been a commonly taken route in the late 1960's/early 1970's, but that course of action was available and not taken up.

26. Subsequent owners have sought to promote the use of the land through the development plan process for a variety of residential uses. While they may desire to reinstate the former residential use of the land, this could not be achieved without a grant of planning permission.
27. Even if I were minded to accept the appellant has demonstrated, on the balance of probability, the landowners' intention to resume the residential use of the land, this is not by itself decisive and could not be elevated to paramount status in any event.

#### *Assessment of the evidence*

28. As previously identified, Class C3 relates to the use of a building as a dwellinghouse. It is the primary use of that building as a dwellinghouse that establishes the lawful use of the land upon which it stands and its associated curtilage and/or garden as having a residential use. Following the demolition of the cottage there ceased to be a building within which the primary C3 residential use could take place. Any resumption of that primary C3 residential use would, as a matter of fact, require planning permission, thereby starting a new chapter in the land's planning history.
29. Furthermore, in the absence of a building/dwellinghouse, there can be no primary residential use of the land. Similarly, the residential use of the garden land would not subsist as there is no primary use to which it would be ancillary. On this basis, it seems to me the C3 residential use could have been lost through the demolition of the building.
30. When discussing whether the cottage could have been made fit for human habitation by exercising permitted development rights, the appellant argued that once the cottage was demolished, it did not benefit from such rights. This adds support to my finding that the demolition of the cottage amounted to a new planning chapter in the land's history.
31. *Iddenden*<sup>2</sup> was not brought to my attention by the appeal parties, it was however referenced in the 'Four Square Oast' appeal decision<sup>3</sup>, which was. It states at DL6 that "*The parties refer to the Iddenden judgement, which found that a use cannot survive if the buildings and installations necessary to sustain it are removed or destroyed.*" This confirms my finding that the primary C3 residential use was lost through the demolition of the cottage.

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<sup>2</sup> *Iddenden v SSE* [1972] WLR 1433

<sup>3</sup> APP/M2270/W/22/3305766 – Proposed repair and reinstatement of a four kiln former Oast House – dismissed 4 August 2023

32. I acknowledge that the demolition of the cottage was not brought about by direct actions of the landowner. JP made considerable efforts to replace the cottage within a relatively short period of time. Those efforts were however unsuccessful and opportunities to challenge those decisions were not taken. Furthermore, no effort was made to establish the lawful C3 residential use of the land before or at the time the cottage was demolished, or at any other time until this LDC application was made; a period of approximately 50 years.
33. I appreciate the legal authorities relating to abandonment were established after JP's series of planning applications. JP may also have had personal reasons for not pursuing the lawful use of the land or any further planning applications after the appeal was dismissed. More likely than not, that would have amounted to a conscious decision by JP to take no further action.
34. I do not doubt that JP held an actual intention to resume the C3 residential use. That intention could not however have been achieved without a grant of planning permission for some form of new building, which he had failed to secure. There being no building on the land and the time that has passed within which planning permission has not been granted to replace the cottage are factors that point towards abandonment of the C3 residential use by JP and weigh against issuing an LDC.
35. Subsequent landowners have recognised the need to secure planning permission before any C3 residential use can be resumed. They have demonstrated an awareness that such planning permission would be unlikely to be granted. In the alternative, they have sought to have the land allocated through the development plan process for several forms of residential use, without success. In my judgement, these actions demonstrate an understanding that the residential use of the land has been abandoned. These factors also weigh against issuing an LDC.
36. I therefore find it more likely than not, that a reasonable person taking an objective view and having knowledge of all the facts and circumstances would consider, as I do, that the C3 residential use had been abandoned following the cottage's demolition and failure to secure planning permission for its replacement within a reasonable period, i.e. by October 1975. Abandonment therefore occurred prior to the date of the LDC application the subject of this appeal.

### **Conclusion**

37. For the reasons given above I conclude, on the evidence now available, that the Council's refusal to grant an LDC in respect of an existing C3 residential use was well-founded and that the appeal should not succeed. I will exercise the powers transferred to me under section 195(2) of the 1990 Act (as amended).

*M Madge*

INSPECTOR

## **APPEARANCES**

### FOR THE APPELLANT:

Mr Ben Garbett	of Keystone Law, Consultant Solicitor instructed by appellant
Mr Kevin Niblett	Appellant

### FOR THE LOCAL PLANNING AUTHORITY:

Mr Piers Riley Smith	of Kings Chambers, Counsel for the Council, instructed by Ms Kim Brown of Shropshire Council
Ms Jane Raymond	Senior Planning Officer, Shropshire Council

## **DOCUMENTS**

ID1	Map showing buildings on the appeal site coloured red and black
ID2	Opening by Mr Garbett for the appellant
ID3	Opening by Mr Riley Smith for the Council
ID4	Closing by Mr Garbett for the appellant

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# Appeal Decision

Site visit made on 11 July 2024

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

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

**Decision date: 20<sup>th</sup> November 2024**

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**Appeal Ref: APP/L3245/W/23/3335742**

**Land north east of The Old Shop, Brynmore, Dudleston Heath, Vicarage Junction via Brynmore to Brick Kiln Wood Junction, Brynmore, Dudleston Heath SY12 9LP**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant planning permission.
  - The appeal is made by Mrs Lynne Ankers against the decision of Shropshire Council.
  - The application Ref is 23/01886/FUL.
  - The development proposed is change of use of land from agriculture to equestrian use with the siting of mobile stables and storage (in situ).
- 

## Decision

1. The appeal is dismissed.

## Application for costs

2. An application for costs is made by Mrs Lynne Ankers against Shropshire Council. That application is subject to a separate decision.

## Preliminary Matter

3. I have taken the site's location from the planning application form but note that the site is referred to as land to the North East of Old Shop, Brynmore, Criftins, Ellesmere SY12 9LP on the appeal form whilst the decision notice describes the location as land North East of The Old Shop, Brynmore, Dudleston Heath, Shropshire. Regardless of these varying descriptions I am satisfied that I have identified and visited the correct site as indicated on the submitted location plan.

## Main Issue

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

## Reasons

5. The appeal site comprises two fields with a public footpath close to the western boundary of the southern field and diagonally crossing the northern field. Other footpaths run along the northern boundary of the northern field and to the south of the southern field. The fields are divided by a mix of low fencing, hedges and trees along the boundaries.
6. The surrounding area is characterised by its rural location with open fields and smatterings of buildings including The Old Shop to the south-west and Tree Tops to the north-west. Other development clusters are dotted around the

landscape. Reference is made to The Shropshire Landscape Typology in which the site is identified as Principal Timbered Farmlands Landscape Character Type (LCT). This is described in the appeal statements although a copy of the document has not been submitted.

7. The appeal includes a statement, submitted as part of the appellants case, specifically addressing the landscape and visual impacts of the stables in relation to the reason for refusal. It states that the site is an area typical of the LCT describing it as well preserved with a high prevalence of equestrian land uses. It further refers to the visibility of the stables for short periods only by users of a single footpath through countryside.
8. I agree that scattered farmsteads, wayside cottages and small settlements typify this landscape and equestrian developments and uses are not uncommon. However, the stables are not related to any nearby developments but stand alone close to the field's boundary. They are located against a backdrop of trees and hedging and adjacent to a public footpath but they are isolated from any nearby development in terms of their function and visual appearance.
9. The Old Shop is nearby but on the other side of the lane and unrelated to the appeal site and the stables. Also, although existing vegetation provides some screening and a backdrop, the extent of the stables is considerable and appears visually intrusive in the landscape. They are highly visible from the footpath crossing the field and dominant along the footpath to the west due to their close proximity to the field boundary.
10. The stables are described as being temporary as they have been placed on skids and therefore technically can be removed. However, they are substantial in size and construction. They provide shelter for rescue horses but there is no indication that the permission is required for a temporary period or the nature of the enterprise would be temporary. I agree that stabling would be necessary to provide shelter for the horses in the interests of their welfare but other than the appellant's ownership of the land, any reasoning behind this specific location is omitted.
11. Furthermore, whilst the stables would provide shelter, the location of them, unrelated to any built development nearby means that the appellant would have to travel to care for the horses. No evidence of any care arrangement has been submitted so my view is based on the appellants address in relation to the appeal site. The two are clearly some distance apart. The location therefore is not a sustainable one as required by Core Strategy<sup>1</sup> Policies CS5 and CS6 and the National Planning Policy Framework.
12. The siting of the stables in this location is visually intrusive especially from the public footpaths. Consequently, they are harmful to the character and appearance of the surrounding area and do not protect or enhance the local character and distinctiveness as required by Core Strategy CS17 and SAMDev<sup>2</sup> Policy MD12 and therefore conflict with them.
13. Whilst SAMDev Policy MD7b is entitled General Management of Development in the Countryside, its text refers to re-use of existing buildings, replacement

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<sup>1</sup> Shropshire Council – Shropshire Local Development Framework : Adopted Core Strategy March 2011.

<sup>2</sup> Shropshire Council Site Allocations and Management of Development (SAMDev) Plan Adopted Plan 17 December 2015.



buildings and agricultural development, none of which are relevant to this proposal. This policy, referred to in the decision notice is not therefore relevant.

**Conclusion**

14. The proposal conflicts with the development plan and the material considerations do not indicate that the appeal should be decided other than in accordance with it. Consequently, the appeal should be dismissed.

*J D Clark*

INSPECTOR

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# The Planning Inspectorate

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Shropshire Council

Your Ref:

Our Ref: APP/L3245/W/23/3335742

20 November 2024

Dear Sir/Madam,

Town and Country Planning Act 1990

Appeal by Mrs Lynne Ankers

Site Address: Land North East of Old Shop, Brynore, Criftins, Ellesmere, SY12 9LP

I enclose a copy of our Inspector's decision on the above appeal(s), together with a copy of the decision on an application for an award of costs.

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Yours faithfully,

***Hazel Stanmore-Richards***

Hazel Stanmore-Richards

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## Appeal Decision

Site visit made on 27 June 2024

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

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

**Decision date: 20<sup>th</sup> November 2024**

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**Appeal Ref: APP/L3245/W/23/3330410**

**Land at Hengoed Fields, Upper Hengoed, Oswestry, Shropshire SY10 7EY**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant planning permission.
  - The appeal is made by Mr Michael McDonagh against the decision of Shropshire Council.
  - The application Ref is 23/02473/FUL.
  - The development proposed is stables, tackroom and foodstore, ménage, yard and access.
- 

### Decision

1. The appeal is dismissed.

### Application for costs

2. An application for costs was made by Mr Michael McDonagh against Shropshire Council. That application is subject to a separate decision.

### Procedural Matters

3. I have corrected a typing error in the site's location, Oswestry rather than Oswentry and in my assessment below, the ménage itemised above, is referred to as a manege/riding arena as described in the submitted documents and plans. These are minor amendments that do not affect my determination of this appeal.

### Main Issues

4. The main issues are the effect of the proposal on:-
  - the character and appearance of the surrounding area;
  - highway safety; and
  - public rights of way.

### Reasons

#### *Character and Appearance*

5. The appeal site comprises a field in an area surrounded by relatively flat open land interspersed with a scattering of buildings. The field is to the east of the road and a public footpath runs through the site at its eastern end. Its rural and open appearance define its character.
6. The stables have already been erected and although relatively modest in scale, together with the proposed manege/riding arena, access and parking area,

would be prominent in the landscape. Although stables and associated equestrian development are typically found in rural locations, the creation of this facility, unrelated to any development around it, introduces development into this open landscape where previously there was none. Such sporadic development erodes the character of this area. There is some screening, particularly from the road by the existing hedge and although additional hedgerow planting of native species could be secured through a suitably worded condition, the visual impact would be only marginally lessened from the road but still very prominent from the public footpaths to the north, east and south.

7. I note the landscape typologies referred to in which the appellant describes the site as falling within an area described as 'Principal Settled Farmlands.... defined by a clustered settlement pattern of hamlets and smaller villages and a medium to high density dispersal of farmsteads and wayside cottages' <sup>1</sup>. However, the proposal would introduce a new development, unrelated to any other buildings, farmsteads or cottages. The appeal site is also not part of the settlements at Hengoed or Upper Hengoed. The flat topography and isolated appearance of the development would therefore have an intrusive impact on the open character of this rural landscape.
8. I note that the Council has approved stables and maneges/riding arenas in other locations and from the information submitted these include a variety of rural locations. However, I have insufficient information about the details of these proposals in order to draw a direct comparison with the proposal before me.
9. Although no policy has been referred to that specifically applies to equestrian development, Core Strategy<sup>2</sup> Policy CS5 permits development in the countryside where it relates to sustainable rural tourism and leisure and recreation proposals which require a countryside location, amongst other things. In this case, the appeal site is not in a sustainable location. There has been no evidence that the site is within walking or cycling distance but is described as being a 15-minute drive away from the appellants home in St Martins. Its detachment from the nearest settlements at Hengoed and Upper Hengoed or any other nearby property also contributes to its unsustainability. Therefore, the proposal would conflict with the sustainability objectives of Core Strategy Policies CS5 and CS6 and that of the National Planning Policy Framework.
10. I conclude that the proposal would have a harmful effect on the character and appearance of the surrounding area and as well as conflicting with the above policies would also be contrary to Core Strategy Policy CS17 and SAMDev<sup>3</sup> Policy MD12, which seek to protect and enhance the local character and distinctiveness.
11. Whilst SAMDev Policy MD7b is entitled General Management of Development in the Countryside, its text refers to re-use of existing buildings, replacement buildings and agricultural development, none of which are relevant to this proposal. This policy, referred to in the decision notice is not therefore relevant.

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<sup>1</sup> Quote taken from the appellant's statement and submitted untitled document extract.

<sup>2</sup> Shropshire Council – Shropshire Local Development Framework: Adopted Core Strategy March 2011.

<sup>3</sup> Shropshire Council Site Allocations and Management of Development (SAMDev) Plan Adopted Plan 17/12/2015.

### *Highway Safety*

12. Access to the site is from a busy road with a 60mph speed limit reducing to 40mph near Upper Hengoed to the north. The appellant judges that traffic speeds are around 50mph. However, this has not been qualified by any statistical information and appears to be based on a general assessment. I have no evidence therefore that would cause me to judge traffic speeds as anything other than the national speed limit.
13. The appellant has submitted a plan indicating that visibility splays of 2.4 metres x 215 metres can be achieved in both directions. The access itself is set back from the highway and a grass verge runs between the road and the hedge line in both directions. However, the submitted drawings are schematic only and there is no indication that they are based on an accurate survey. The accuracy of these visibility splays cannot therefore be relied upon. I also note the Council's concerns regarding access radii and internal manoeuvring space and parking.
14. Whilst planning conditions can ensure that precise specifications can be clarified and secured, it is important to ensure that vehicles can safely enter and leave the site safely and without encroaching on the opposing side of the carriageway. Given the speed of traffic on this road and in the absence of compelling evidence that the access can function safely for this development, I consider the uncertainty over visibility splays is not something which can be dependent on a planning condition.
15. The proposal would utilise an existing field access although I have no evidence as to its frequency of use or whether any of the road traffic incidents cited by the appellants and third parties involved this access. I have taken into account the appellant's submitted data which indicates two incidents, one which appears to be in Upper Hengoed in 2018 reported as of slight severity and another to the south of the site indicating severe severity in 2017, and third-party information which indicate seven incidents between 2017 and 2023.
16. The road is very straight and given the national speed limit that applies to the road and the lack of evidence that this would be safe for the proposal development, I can only conclude that it would have a harmful effect on highway safety. This would conflict with the development principles and transport aims of Core Strategy Policies CS6 and CS7.

### *Public Rights of Way*

17. A public footpath crosses the site, but this would be located away from the proposed development and therefore there would not be any physical impact on the footpath. The footpath continues into the adjacent field to the north and into the field to the south where it turns at a right angle to meet the road. Due to the flat landscape, the proposal would be visible from the footpath. This would not harm the enjoyment of walking along the footpath itself but the wider impact on the landscape would be affected as referred to above. However, as no physical harm would be caused to the footpath the proposal would not conflict with Core Strategy Policy CS17 or SAMDev Policy MD12 in terms of affecting Shropshire's natural network or an environmental asset.

### **Other Matters**

18. I have taken into account that the area is not protected by a specific landscape designation, Area of Outstanding Natural Beauty or any identified biodiversity or heritage assets. Also, the proposal would not impact on trees, hedgerows, heritage assets or significant views in terms of national designations. These matters have not affected my conclusions.
19. The appellants states that Core Strategy Policy CS16 is relevant but has not been mentioned by the Council. A copy of this policy has not been submitted but the appellant has quoted it. Taking the quoted policy therefore, it is concerned with tourism, culture and leisure. Whilst the appellant has extracted the leisure elements from the policy, the policy promotes sustainable tourism, culture and leisure in terms of their contribution to the local economy and benefits to the local community and visitors. However, the proposal is for the private use of the appellant and no evidence has been submitted that would indicate that it would contribute to tourism or the wider community. I do not therefore find this policy to be relevant.

### **Planning Balance and Conclusion**

20. I have not found harm to the public footpath and some elements relating to highway safety could be dealt with by condition. However, the proposal would have a harmful effect on the character and appearance of the surrounding area and no compelling evidence has been submitted that would convince me that highway safety would not be compromised.
21. The proposal conflicts with the development plan as a whole and the material considerations do not indicate that the appeal should be decided other than in accordance with it. Consequently, the appeal should be dismissed.

*J D Clark*

INSPECTOR





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## Costs Decision

Site visit made on 27 June 2024

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

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

**Decision date: 20<sup>th</sup> November 2024**

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### **Costs application in relation to Appeal Ref: APP/L3245/W/23/3330410 Land at Hengoed Fields, Upper Hengoed, Oswestry, Shropshire SY10 7EY**

- The application is made under the Town and Country Planning Act 1990, sections 78, 322 and Schedule 6, and the Local Government Act 1972, section 250(5).
  - The application is made by Mr Michael McDonagh for a full award of costs against Shropshire Council.
  - The appeal was against the refusal of the Council on an application for planning permission for stables, tackroom and foodstore, ménage, yard and access.
- 

### **Decision**

1. The application for an award of costs is refused.

### **Reasons**

2. Parties in planning appeals normally meet their own expenses. However, the Planning Practice Guidance (PPG) advises that costs may be awarded against a party who has behaved unreasonably and thereby caused the party applying for costs to incur unnecessary or wasted expense in the appeal process.
3. The applicant considers that the Council has acted unreasonably in that the refusal is not based on relevant policies in the development plan, it has not been objective in its assessment, no substantive evidence of harm has been demonstrated and it has been inconsistent in allowing other similar applications in recent years.
4. The Council has referred to development plan policies in its reasons for refusal. The relevance of Policy MD7b is questionable as it refers to the re-use of existing buildings, replacement buildings and agricultural development. None of which apply to this proposal. Such a broad application of development plan policies is at the very least unhelpful in assisting the applicant's understanding of the Council's decision and is unreasonable.
5. Assessing the impact of a development on an area is to some degree inevitably subjective and it is not surprising that the appellant is able to point to other examples of equestrian related development in the wider area. However, in this regard I have no evidence that the Council's approach is unreasonable.
6. The decision notice comprises three reasons for refusal which the Council has defended. Although the third reason cannot be substantiated in terms of the development plan, notwithstanding the application of an irrelevant policy, the other two can. In exercising his right to appeal therefore, I do not consider that the appellant has incurred unnecessary or wasted expense in the appeal process.

7. Accordingly, whilst I find that the Council has acted unreasonably with regard to a misquoted policy, its decision has not prevented development that otherwise should clearly have been permitted, having regard to the development plan as a whole, national policy and other material considerations. Consequently, the appellant has not incurred unnecessary or wasted expense in the appeal process.
8. Therefore, unreasonable behaviour resulting in unnecessary or wasted expense has not occurred and an award of costs is not warranted.

*J D Clark*

INSPECTOR



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## Appeal Decision

Site visit made on 1 October 2024

**by J Smith MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 13<sup>th</sup> November 2024

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**Appeal Ref: APP/L3245/W/24/3343394**

**Paddock Lodge Site, Kinnerley Road, Kinnerley, NR. Oswestry, Shropshire SY10 8DB**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant planning permission.
  - The appeal is made by Mark Sheppard against the decision of Shropshire Council.
  - The application Ref is 23/05025/FUL.
  - The development proposed is proposed change of use of existing holiday lodges (C1/Sui Gen) to residential dwelling (C3) and associated works.
- 

### Decision

1. The appeal is dismissed.

### Main Issues

2. The main issues are:
  - whether the appeal site would be a suitable location for housing, having regard to planning policies; and,
  - whether the loss of holiday lets would have a significant adverse impact on the local visitor economy.

### Reasons

#### *Open Countryside*

3. The appeal site is located off Kinnerley Road and is located between Kinnerley and Knockin. Four buildings which are currently used as holiday lodges are located in the site, which for the purposes of planning policy, are located in the open countryside. Policy MD7a of the Shropshire Council Site Allocations and Management of Development Plan 2015 (SAMDev) deals with managing housing development in the countryside. Part 4 of the policy addresses the use of existing holiday lets as permanently occupied dwellings.
4. There would be no conflict with Point A of Policy MD7a which requires buildings to be of permanent construction and have acceptable residential amenity standards for full time occupation. Point C is not relevant, because the buildings under consideration do not meet the definition of a heritage asset as set out in Policy CS5.
5. Point B supports the use of existing holiday lets as residential dwellings if they are restricted to affordable housing for local people. The Type and Affordability of Housing Supplementary Planning Document 2012 (SPD) further acknowledges that the conversion to use holiday let accommodation as residential dwellings, where they enter into a Section 106 legal agreement to

restrict their value in perpetuity as an affordable home, could be supported. The appellant has not proposed to enter a Section 106 agreement to restrict these building as affordable housing units. Therefore, Point B would not be met as these buildings would not be restricted as affordable units.

6. To conclude, the proposal would not be a suitable location for housing, having regard to Policy MD7a of the SAMDev and the guidance found within the SPD.

#### *Effect on the Local Visitor Economy*

7. Tourism can contribute to a successful visitor economy. Policy MD11 of the SAMDev further stipulates that proposals for the conversion of holiday lets to a permanent residential use should demonstrate that their loss will not have a significant, adverse impact on the visitor economy. As noted in the supporting text of Policy CS16 of the Shropshire Local Development Framework Adopted Core Strategy 2011 (CS), tourism is a key local economic sector which generates economic benefits, including a large number of jobs.
8. The Council has provided a map, taken from the booking agent website used by the appellant, of 5-star self-catering accommodation in the area. This evidence shows that this level of accommodation is fairly evenly distributed across Shropshire and over into the Welsh border, but there is an absence of accommodation to the east of the appeal site. However, alternative evidence provided by the appellant illustrates that there is visitor accommodation to the east, but that there is also a greater amount of accommodation generally in the Shropshire area than shown in the evidence presented by the Council.
9. This evidence highlights just a snapshot of what accommodation may be available. Neither evidence sets are backed up by total figures from a verified and independent source. Overall, I am not convinced that the loss of four holiday lets, would have a significant, adverse impact on the visitor economy, or on Shropshire as a whole.
10. The Council has suggested that the loss of four holiday lets would also lead to the loss of jobs. The financial circumstances of the appellant appear to suggest that any jobs which may have existed no longer exist as they cannot be afforded. Even if jobs do exist, the loss of these jobs overall would be limited in number due to the small size of the site and therefore, would not be significantly detrimental to the local visitor economy.
11. As such, I conclude that the loss of four holiday lets would not have a significant adverse impact on the local visitor economy. Therefore, the proposal would not conflict with Policy MD11 of the SAMDev. The Council have cited Policy CS16 of the CS and Policy MD7a in their reason for refusal on this matter. These policies are not directly applicable to the main issue.

#### **Other Matters**

12. As proposed, it is noted that there is an absence of objections from neighbouring properties. It is suggested that the proposal would not result in unacceptable effects upon the living conditions of future occupiers or neighbouring properties as it would meet the policy requirements relating to these matters, and I have no reason to disagree.
13. The appeal site has a history of noise complaints and subsequent curfew restrictions imposed by the site operators. The issues relating to noise would

continue if the buildings were sold as holiday homes. The buildings have permission for this use class and therefore, this could be undertaken. The change of use would reduce the effect of noise on neighbouring properties as large groups of visitors would no longer utilise the site for holidays. This change of use would offer a degree of betterment and as such, I ascribe moderate weight to this matter.

14. The appellant allege the Council lack consistency and fairness in making their decision on the planning application. However, these are matters between the main parties that have no bearing on the appeal before me, which I have assessed on its planning merits. Apparent similarities between the proposal and other developments in the area have been cited by the appellant but limited details of each case have been provided. I am unable to draw meaningful comparisons between those developments and the scheme before me and attribute them limited weight.
15. The appellant suggests that there is an acknowledged housing shortfall in Shropshire. The Council however has confirmed in their statement that they have an up to date 5 Year Housing Land Supply of 5.91 years. In a further assessment of this matter, the SAMDev identifies Kinnerley as being part of a community cluster which will provide around 50 dwellings over the plan period. Information provided suggests that there is no undersupply of housing in the Kinnerley community cluster as its supply target has been exceeded. There is no substantive evidence to counter the Council's housing land supply position. As such, I ascribe limited weight to this matter.
16. The future occupiers would provide economic benefits to the local area once the development would be complete through their regular use of local shops and services throughout the year. This would be more regular than visiting tourists. In consideration of the environmental benefits, there would be a reduction of visitors to this site by private vehicle due to the reduction in the turnover of guests, when operating at full capacity. I do however disagree with the appellant that the change of use would also not place further pressure on local amenities or utilities. Regular occupants are more likely to use doctors' surgeries for example. However, the effect of this would be limited. I find that these public benefits are limited and do not outweigh the harm I have found to the open countryside.
17. Furthermore, it is argued that the requirement to enter into a Section 106 legal agreement to restrict the value of the buildings in perpetuity as an affordable home is not in line with the typical conditions set for smaller developments and is unfair on the appellant in the circumstances cited. Whilst I have taken this into account, Policy MD7a Part 4 Point B of the SAMDev clearly states that the use of existing holiday lets as residential dwellings will only be supported if the dwellings are restricted as affordable housing. This is a policy requirement which must be met when considering the change of use of holiday lets to residential dwellings. I have therefore given this limited weight.
18. The appellant states that their financial circumstances are such that they cannot continue to operate the lodges as tourist accommodation, as doing so has caused them to incur significant losses. The financial circumstances cited by the appellant and its effect upon relationships and health is covered extensively. This is noted. The appellant further suggests that the site has

been for sale in its current form for a number of years. I have been conscious of these circumstances during my assessment of this appeal. However, there is little evidence that the lodges have been marketed, or if so what level of interest has been shown from prospective purchasers. There is an absence of a robust independent financial appraisal of viability. While I am sympathetic to the appellant's circumstances, this only attracts limited weight in favour of the proposal.

### **Planning Balance and Conclusion**

19. In consideration of the matters explored above, whilst some of these attract some weight, they do not outweigh the harm to the open countryside, and the conflict with planning policy in respect of this issue. The proposal would conflict with the development plan. Material considerations, including the Framework, do not indicate that the decision should be made other than in accordance with it. Therefore, I conclude that the appeal should be dismissed.

*J Smith*

INSPECTOR



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# Appeal Decision

Site visit made on 27 June 2024

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

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

**Decision date: 27 November 2024**

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**Appeal Ref: APP/L3245/W/23/3334667**

**World War II munitions bunker west of Shrawardine Castle, Shrawardine Castle Farm, Shrawardine, Shrewsbury SY4 1AJ**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant planning permission.
  - The appeal is made by Mr & Mrs S & R Jones of Adlebury Limited against the decision of Shropshire Council.
  - The application Ref is 23/01573/FUL.
  - The development is proposed conversion of a World War II munitions bunker to a holiday let.
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## Decision

1. The appeal is dismissed.

## Preliminary Matter

2. The former World War II munitions bunker is a non-designated heritage asset. However, no heritage implications have been raised in the Council's refusal of the application although I have taken into account the retention and development of a heritage asset in my determination of this appeal.

## Main Issue

3. The main issue is whether the site is a suitable location for a holiday let having regard to its accessibility.

## Reasons

4. The appeal site comprises a former munitions bunker and access to it. It is adjacent to another bunker and originally formed part of a wider group of similar buildings which provided secure storage during World War II.
5. Access to the bunker is across fields from a country lane which passes through the village of Shrawardine. This is described in the Shropshire Hierarchy of Settlements<sup>1</sup> as being a 'recognisable named settlement' in Shropshire and falling under the category for 'other rural settlement'. There is little by way of local services or facilities in the village so it would be necessary for those living or staying in or around the village to travel farther afield. Nesscliffe, described in the hierarchy as a 'community hub settlement', is referred to as being about 2 miles away. Shrewsbury, the 'strategic centre' in the hierarchy, with its full range of services and facilities, is accessible from the A5 which is about 2.5 miles from the appeal site with the town being about 8 miles away.

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<sup>1</sup> Shropshire Council Hierarchy of Settlements (2017).



6. Shrawardine does not have a bus service although the appellants refer to Shropshire Council's 'Connect on Demand' service which may become available in the future. The National Cycle Route 81 and The Shropshire Way run to the east of the appeal site, and therefore the proposed holiday let may well be a choice for cyclists and walkers requiring a rural location. However, a significant portion of them would still likely be dependent on a car or equivalent vehicle.
7. The proposed holiday let would be substantial in size aimed at large group/family holiday lettings. The converted bunker would provide accommodation for up to 18 guests. This would add to the holiday accommodation already offered by the appellants at Shrawardine Castle Farm from which the appellants run a mixed arable and livestock farm together with holiday accommodation which has developed to diversify the business. Their existing business is well established and can accommodate 26 guests. It is described as being about half a mile away from the appeal site.
8. The proposal would provide a large unit of accommodation which would generate a substantial amount of comings and goings from holiday makers. Arrivals, departures and activities associated with people enjoying their holiday and the wider aspects of the region would inevitably involve journeys by car. Whilst I have no concerns from a highway safety point of view and notwithstanding the existing holiday accommodation run by the appellants, the remoteness of this large scale holiday let would make it unsustainable.
9. This would conflict with the objectives of Shropshire's Core Strategy<sup>2</sup> Policy CS1 and not meet the requirements of Policy CS5 or CS16 which, whilst encouraging tourist accommodation, requires visitor accommodation to be close to or within settlements, or a viable tourism enterprise where accommodation is required. The latter does not apply and I do not accept that the proposal is sufficiently close to a settlement so as to avoid the dependency on a car. Furthermore, Policy MD11 of the SAMDev<sup>3</sup> recognises the need to balance the positive and negative impacts of tourist development but in this case the increased journeys to this development would be significant and therefore would be inconsistent with the policy's objectives. Consequently, the appeal site is not a suitable accommodation for a holiday let with regard to its poor accessibility.

### **Other Matters**

10. The proposal would have economic benefits both in the short and longer term. The converted building would in the first instance require construction works and later the accommodation would involve staff employed to service it. I appreciate that the proposal has generated some support including from local businesses and whilst this weighs in favour of the proposal, it does not overcome the unsustainable location of the appeal site.
11. I also note the draft Shropshire Destination Management Plan 2023-2025<sup>4</sup> which provides a blueprint for how Shropshire intends to manage the visitor economy. Furthermore, I have no reason to doubt the appellant's experience

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<sup>2</sup> Shropshire Council Shropshire Local Development Framework : Adopted Core Strategy, March 2011.

<sup>3</sup>Shropshire Council Site Allocations and Management of Development (SAMDev) Plan Adopted Plan 17 December 2015.

<sup>4</sup> Shropshire Destination Management Plan 2023-2025 Produced April 2022. V6 (Updated January 2023) – Final Draft.



in the tourist industry and their subsequent identification of a demand for the type of accommodation proposed here.

12. Core Strategy Policy CS5 sets out a list of criteria in order to control development in the countryside and the Green Belt. Amongst other things, it supports small scale new economic development diversifying the rural economy provided the need and benefit of the development is demonstrated. However, the appellants already run a farm as well as providing tourist accommodation. Whilst the full details of these businesses are not submitted, I do not find that the policy excludes the proposed holiday let in this case on the basis of need. The policy includes a broad set of criteria including rural tourism and the conversion of rural buildings.
13. There is no dispute about the design of the conversion. The proposal would also ensure the former bunker was retained, providing an interesting insight into military history and the role of this area in World War II. I am satisfied that the significance of this non-designated heritage asset would not be harmed but provides an opportunity to retain it and sustain its historical interest. Thus, the social benefits would be advantageous.
14. The proposal would have limited environmental benefits but it would provide an opportunity to improve biodiversity by the provision of bat and bird boxes for example. Matters of ecology could be addressed by suitably worded conditions.
15. My attention has been drawn to an appeal decision at another site in Shropshire, Meadowtown Farm<sup>5</sup>. Whilst the appellant describes the similarities between that proposal and this one, from the information submitted, there are differences. Most notably, Meadowtown Farm is described as being within a settlement where sustainable development, including infilling and conversions will be supported by the adopted development plan. The appeal site on the other hand is not within a settlement but is within open countryside and is not supported by the development plan as a whole. I do not therefore find the two appeals directly comparable.

### **Planning Balance**

16. The proposed conversion would provide a use for this building which is recognised locally as a non-designated heritage asset. The National Planning Policy Framework (the Framework) requires a balanced judgement in weighing applications that affect non-designated heritage assets. In this case, the re-use of this building would carry moderate weight.
17. The proposal would also build on an existing business enterprise and in turn contribute to other associated businesses related to tourism. The Framework supports sustainable rural tourism recognising that all locations may not be well served by public transport. The economic benefits therefore would also carry moderate weight. The existing site has little ecological benefits but the proposal would provide some opportunities to improve these although these would be small and the weight afforded in this regard is limited.
18. The benefits, and I have not listed every benefit here, carry moderate weight, however, the sustainable objectives of the Framework are clear and taking into account the moderate social, economic and environmental aspects of

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<sup>5</sup> Appeal Ref: APP/L245/W/20/3246306.

sustainability, the accessibility of the appeal site weighs heavily against the proposal. The harm caused in this regard carries significant weight.

19. Therefore, whilst the development plan supports tourism and growth, the proposal would provide a large scale holiday let, accommodating 18 guests who would be largely dependent on a car to access the property. The potential scale of activity would be substantial and given the isolated location of the appeal site, the proposal would be unsustainable, in conflict with the development plan policies referred to above and the sustainability objectives of the National Planning Policy Framework.

### **Conclusion**

20. The proposal conflicts with the development plan and the material considerations do not indicate that the appeal should be decided other than in accordance with it. Consequently, the appeal should be dismissed.

*J D Clark*

INSPECTOR



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## Appeal Decision

Site visit made on 31 October 2024

**by B J Sims BSc (Hons) CEng MICE MRTPI**

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

**Decision date: 15 November 2024**

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**Appeal Ref: APP/L3245/D/24/3347742**

**Fernleigh, High Street, Clive, Shropshire, SY4 3JL.**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
  - The appeal is made by Mr and Mrs Lansdale against the decision of Shropshire Council.
  - The application Ref is 24/00747/FUL.
  - The development proposed is the erection of a two-storey extension.
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### Decision

1. The appeal is dismissed.

### Procedural Matter

2. The two-storey extension subject to appeal is proposed to replace an existing single-story rear extension which, inspection reveals, has already been removed in favour of fresh, ongoing building works. These works do not appear to accord with the detailed plans now before me and I do not take them into account. I determine this appeal strictly with reference to the submitted plans for a two-storey rear extension.

### Main Issues

3. The main issues in this case are the effects of the proposed extension, first, on the character and appearance of the mid-terrace host property and the terrace as a whole, second, on the amenity of neighbouring properties and, third, on the setting of the nearby Grade II Listed Old Manor House.

### Reasons

#### *Character and Appearance*

4. Fernleigh faces north onto High Street along with its terraced neighbours, Oakleigh to the west and April Cottage to the east. The terrace was historically a U-shaped farmstead associated with the Grade II Listed Old Manor House, close by to the south. The U-shape remains due to substantial rearward projections from both the end the dwellings. However, the properties were converted for residential use in the 1930s, since when their joint identity as a farmstead has become obscured by domestic curtilages. However, the terrace is now identified as non-designated heritage asset.
5. The previous single-storey, rear extension was relatively subservient to the main dwelling at Fernleigh. In contrast, the two-storey addition now proposed

would not only rise to the same eaves height as the host dwelling but would be significantly greater in both rearward projection and width. The double-cropped pitched roof would reach a point as high as the main ridge of the terrace and would be linked to the main roof by a lower-level section of pitched construction, resulting in incongruous combination of forms.

6. The development would virtually double the size of the existing main house and appear out of scale and keeping with Fernleigh and the terrace as a whole. This would also result in less than substantial harm to the non-designated heritage asset, requiring overriding public benefit to justify approval, in terms of the National Planning Policy Framework (NPPF).

#### *Amenity*

7. For the same reasons the proposed extension would appear more dominant than its predecessor, especially from the garden of Oakleigh, where two new first floor windows in the wall, hard on the shared boundary, would also introduce a degree of overlooking. There is further concern that the extension would cause additional overshadowing of both adjacent gardens and also harm the outlook from the Old Manor House.
8. I agree that the development would give rise to these effects and thus be harmful to local amenity to some degree, although the southern aspect of the terrace and the existing presence of the rear projections at Oakleigh and April Cottage would lessen the net amount of overshadowing.

#### *Listed Building*

9. There are conflicting representations with respect to heritage interests, with the heritage impact assessment provided by the Appellants claiming no harm but the Council and neighbouring residents submitting that there would be less than substantial harm to the setting of the Grade II Listed Old Manor House.
10. It is a matter of judgement.
11. It is my view that, despite the appeal terrace being no longer identified as a farmstead potentially associated with the Manor House, its proximity to the main front elevation of the Old Manor House is such that the visually unacceptable addition to Fernleigh proposed would indeed cause less than substantial harm to the setting of the designated asset.

#### *Conclusions*

12. I consider that the potential harm to the character and appearance of Fernleigh, and the terrace as a whole, places the appeal proposal into unacceptable conflict with aims of Policies CS5-6 of the adopted Shropshire Core Strategy and Policy MD2 of the adopted Shropshire Council Site Allocations and Management of Development (SAMDev) Plan to achieve sustainable design. This alone warrants dismissal of the appeal.
13. I do not consider the harm to amenity to be decisive but it is still contrary to the sustainable design principles of Policy CS6 and adds to the case against the development.
14. The less than substantial harm to the designated and non-designated heritage assets affected is contrary to SAMDev Plan Policy MD13 to protect the historic environment. This also adds to the case against the appeal.

15. There are no evident public or other benefits sufficient to outweigh these objections and I consider the appeal proposals to be in conflict with the development plan as a whole.

16. I therefore conclude that this appeal should be dismissed.

*B J Sims*

INSPECTOR

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## Appeal Decision

Site visit made on 11 July 2024

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

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

**Decision date: 2<sup>nd</sup> December 2024**

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**Appeal Ref: APP/L3245/W/24/3339634**

**Former Anvil Café, A41 from Bletchley Dual Carriageway to Upper College Junction, Sandford, Shropshire, Whitchurch SY13 2HY**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant planning permission.
  - The appeal is made by Mr Paul Archer of Archers Transport Ltd against the decision of Shropshire Council.
  - The application Ref is 23/04441/FUL.
  - The development is proposed redevelopment of site of former transport café to provide new café and facilities building with associated landscape works, trailer and car parking and servicing areas.
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### Decision

1. The appeal is dismissed.

### Main Issues

2. The main issues are: -
  - whether the proposal is a suitable location for the proposal having regard to the locational requirements of the development plan.
  - the effect of the proposal on the living conditions of nearby residential properties with regard to noise; and
  - the ecological effects of the proposal.

### Reasons

#### *Location*

3. The appeal site is located in open countryside to the west of the A41. It comprises a large area of hardstanding and a single storey building. Parts of the site are roughly vegetated and there are trees and hedges to its boundaries. Previously the site has been used as a transport café and associated truck park. The building was last used for residential accommodation and parts of the site have large trailers parked/stored on it. The appellant also describes the site as having been used as a workshop/parking/storage yard.
4. The proposed new café and facilities (WC and showers) and a large area for lorries to park would mainly be aimed at providing a service for passing lorry drivers travelling along the A41. It is directly related to the transport of goods by road.

5. The planning application indicates that the proposal would provide employment for five full time, or equivalent, staff. A parking area for cars would be provided which would include electric charging points and parking space for bicycles. However, the site is not easily accessible other than by a car although the appellant refers to a regular bus service from Shrewsbury to Whitchurch (route 512 – Shrewsbury – Wem – Prees – Whitchurch).
6. The nearest settlement is Prees Higher Heath and although its edge is described as being 500 metres away, the route or distance from people living in this settlement to the appeal site is likely to be more than 500 metres and would involve approaching and leaving the site via the busy A41. The footpath is on the opposite side of the road and there is no crossing place. Manor House Lane runs off the A41 but is a country lane with no footpath. Neither sections of road have any street lighting. Neither route is therefore likely to be attractive to walkers or cyclists.
7. Core Strategy Policy CS8 permits, amongst other things, facilitating the timely provision of additional facilities, services and infrastructure to meet identifiable needs. There may be a national need for HGV parking and facilities and the National Planning Policy Framework (the Framework) indicates, in paragraph 113 that planning policies and decisions should recognise the importance of providing adequate overnight lorry parking facilities, taking into account local shortages. However, convincing evidence that there is a local shortage of such facilities has not been submitted.
8. Core Strategy Policies CS6 relates mainly to sustainable design principles but there is no dispute between the parties regarding the design of the proposal. I have no reason to come to a different conclusion. This policy is not therefore applicable to this issue. Reference has been made to Policy CS13 but a copy has not been submitted.
9. Core Strategy<sup>1</sup> Policy CS5 seeks to protect the countryside and provided the vitality and character of the countryside is maintained and enhanced, development will be permitted provided it relates to one of the criteria listed. One such criteria is small scale economic development diversifying the rural economy which the appellant considers applies to this development. I disagree. The proposal is small scale in that just 5 full time staff, or equivalent, would be employed, but the number of lorries that could be accommodated would be substantial.
10. Furthermore, the contribution to the rural economy arising from this development would be limited as it would not be directly related to a rural enterprise. It is a commercial business that is not specifically reliant on a rural location. The explanation to the policy emphasises its aim to facilitate a wide range of beneficial rural development that provides for local needs. Whilst the proposal would generate a small number of jobs, the site has limited accessibility for staff other than by car, and therefore would conflict with this policy.
11. Consequently, I conclude that the proposal would not be in a suitable location having regard to development plan Policies CS5 and CS8.

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<sup>1</sup> Shropshire Council – Shropshire Local Development Framework : Adopted Core Strategy, March 2011.



### *Living Conditions*

12. I have no evidence about the proximity of the nearest residential properties nor have details been submitted concerning the noise levels likely to be generated from the proposal. It has been indicated that hours of operation could be controlled by condition if necessary. However, I have no information as to whether a condition would be necessary as no noise survey or assessment has been submitted. Also, given the nature of the proposal, it is not clear how restricting the operating hours would impact on the operation of the proposal. I do not therefore consider a condition reasonable.
13. Whilst I appreciate that this issue was not raised earlier with the appellant by the Council, on the basis of a lack of evidence to the contrary, the scale of the proposal in terms of the number of lorries that could be accommodated would have a harmful effect on the living conditions of the occupiers of surrounding residential properties. This would conflict with Core Strategy Policy CS6 which aims, amongst other things, to safeguard residential amenity.

### *Ecology*

14. The proposal includes areas of rough vegetated land, trees and hedges but no information has been submitted with regard to habitats or the natural ecology of the site. The proposal would involve clearance of the site and whilst new landscaping could be secured through a condition, the extent of the loss of any natural assets is unknown. Whilst a condition could be secured to address any ecological implications this would only be appropriate once the ecological implications were known.
15. I also note that the Council did not raise this matter with the appellant prior to issuing its decision but given the lack of information as to the ecological attributes or otherwise of the site, the proposal would have a harmful effect on the natural assets, habitats and ecological features on the site. This would conflict with Core Strategy Policy CS17 and SAMDev<sup>2</sup> Policy MD12 which seek to protect the natural environment.

### **Other Matters**

16. The Framework states in paragraph 85 that planning policies and decisions should help create the conditions in which business can invest, expand and adapt. Furthermore, significant weight should be placed on the need to support economic growth and productivity, taking into account both local business needs and wider opportunities for development. However, there is no evidence that this proposal would fulfil a local business need nor would it meet any community needs as indicated in paragraph 89 of the Framework when assessing local business and community needs outside existing settlements.
17. The Framework supports the effective use of land and the site has been described as a previously developed one. This matter is not disputed between the main parties and I have no reason to reach a different conclusion. Sustainable development is a key aim of the Framework and the proposal would have economic benefits in providing jobs for a small number of people and by creating a business use on a site which is currently unused. It would also support the businesses that used the facilities in terms of the HGV

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<sup>2</sup> Shropshire Council Site Allocations and Management of Development (SAMDev) Plan Adopted Plan 7 December 2015.

drivers. This would also benefit the welfare of drivers but otherwise its social benefits are limited. Its environmental benefits include bringing a vacant site into use but the uncertainty over the ecological implications of the development limit any benefits in this regard.

18. I note that there are no objections to the proposal with regard to highway safety, subject to conditions. However, this does not overcome the harm I have identified in my three main issues above.

### **Conclusion**

19. The proposal conflicts with the development plan and the material considerations do not indicate that the appeal should be decided other than in accordance with it. Consequently, the appeal should be dismissed.

*J D Clark*

INSPECTOR



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## Appeal Decision

Site visit made on 13 December 2024

**by J D Westbrook BSc(Hons) MSc MRTPI**

an Inspector appointed by the Secretary of State

**Decision date: 31 December 2024**

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**Appeal Ref: APP/L3245/D/24/3350474**

**20 Longden Avenue, Shrewsbury, SY3 7RJ**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant planning permission.
  - The appeal is made by \* Hood against the decision of Shropshire Council.
  - The application Ref is 24/01572/FUL.
  - The development proposed is the construction of a porch and first-floor side extension.
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### Decision

1. The appeal is dismissed.

### Main Issue

2. The main issue in this case is the effect of the proposed side extension on the character and appearance of the area around Longden Avenue.

### Reasons

3. No 20 is a brick-built end-terraced house situated within a corner plot on the southern side of Longden Avenue, at its junction with Hill Crescent. There are short terraces of three properties on Longden Avenue, either side of the junction, and each has elevations of brick, painted brick and render to create a largely unified appearance. The appeal property has a single-storey side extension, constructed of brick and with a flat roof. The extension is set well back from the main front elevation.
4. The proposed extension would be a rectangular structure set on top of the existing side extension. It would project beyond the ground floor extension to the front and to the side, and would project above the eaves at the side of the house, such that it would visually cut across the hipped roof of the host property. It would be timber clad with aluminium capping and would be connected to the existing hipped roof by way of recessed metal cladding.
5. By reason of its situation on a corner plot, the proposed extension would be highly prominent in the street scene,. The properties on Longden Avenue and Hill Crescent consist almost entirely of semi-detached and terraced houses with a degree of symmetry throughout. They are characterised by use of traditional materials and use of hipped roofs. The small bungalows situated around Longdon Grove opposite to the appeal property are grouped in two short terraces which also

- display symmetry and use of materials and a basic design that is largely sympathetic to the prevailing character and appearance of the surrounding area.
6. Whilst, in principle, there is no inherent reason why modern designs should not exist side by side with older traditional designs and materials, in this case, the proposed extension, by way of the resultant combination of unsympathetic shape, height, overhanging position, prominent siting, and uncharacteristic materials, would appear as an incongruous element, out of character with the main dwelling and with the surrounding area. There would also be an awkward juxtaposition of the flat roof of the proposed extension and the hipped roof of the host building. Finally, the siting of the extension above the existing brick extension, with its overhanging nature and a height that would cut across the hipped roof, would result in a structure that would appear to visually dominate the main house, harmful to the street scene around and beyond the road junction.
  7. Policy CS6 of the Council's Adopted Core Strategy (CS) requires development to respect and enhance local distinctiveness. Policy MD2 of the Shropshire Council Site Allocations and Management of Development document (SAMDev), indicates that development should respond appropriately to the form and layout of existing development, and that it should reflect locally characteristic architectural design and details including materials, form, scale and proportion. Policy MD2 also indicates that development should embrace opportunities for contemporary design solutions, but that it should also take reference from and reinforce distinctive local characteristics. For my reasons stated above, the proposed extension would conflict with these policies.
  8. The appellant has given examples of existing timber-clad extensions within the local area. I have little detail about these, but they would not appear to be in prominent positions, and they appear to involve more sympathetic and characteristic use of design, scale and colour in their respective contexts than would be the case with this present proposal. In any event, I have dealt with this case on its own merits.
  9. In conclusion, I find that the proposed extension would be harmful to the character and appearance of the area around Longden Avenue and Hill Crescent, and that it would conflict with Policy CS6 of the CS and policy MD2 of the SAMDev. Accordingly, I dismiss this appeal.

*J D Westbrook*

INSPECTOR



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## Appeal Decision

Site visit made on 13 December 2024

**by J D Westbrook BSc(Hons) MSc MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 31 December 2024

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**Appeal Ref: APP/L3245/D/24/3348466**

**12A Primrose Terrace, St. Michaels Street, Shrewsbury, SY12EY**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant planning permission.
  - The appeal is made by Mr Ian Putnam against the decision of Shropshire Council.
  - The application Ref is 24/01704/FUL.
  - The development proposed is the replacement of front windows.
- 

### Decision

1. The appeal is dismissed.

### Main Issue

2. The main issue in this case is the effect of the replacement windows on the character and appearance of the Shrewsbury Conservation Area.

### Reasons

3. The appeal property (No 12A) is a mid-terraced house within Primrose Terrace on St. Michaels Street. It lies within the Castlefields and Spring Gardens Special Character Area within the Shrewsbury Conservation Area (CA). Primrose Terrace consists of 31 dwellings of uniform design, set around 2 metres in from the rear of the pavement and behind low front walls. The dwellings have front windows of identical sash design, most in original wooden frames, but some (around 30%) having replacement windows in UPVC. The terrace is subject to an Article 4 direction which operates in addition to the CA designation, and which removes permitted development rights to its frontage. The proposal would involve the replacement of three front, wood-framed sash windows with uPVC wood-grain effect double-glazed sash windows of similar design.
4. Policy CS6 of the Council's Adopted Core Strategy (CS) requires development to respect and enhance local distinctiveness. Policy CS17 requires development to protect and enhance the high quality and local character of the Council's built and historic environment, and not adversely affect their heritage values. Policy MD2 of the Shropshire Council Site Allocations and Management of Development document (SAMDev), indicates that development should respond appropriately to the form of existing development, and that it should reflect locally characteristic architectural design and details, including materials. Policy MD13 states that heritage assets will be protected, conserved and sympathetically enhanced and restored by avoidance of harm or loss of significance.

5. The appellant contends that the proposed replacement windows would be of a high-quality heritage design and would appear as very similar to the wooden windows that they would replace. In addition, he contends that a large number of the houses in the terrace already have replacement uPVC windows, and that the proposed windows at No 12A would not, therefore, be harmful to the character or appearance of the terrace.
6. The appellant also refers to two recent planning appeal decisions, one in Basingstoke and one in Shrewsbury itself, in which the inspector has allowed the replacement of wooden window frames with uPVC windows similar to those proposed at the appeal property.
7. I have not been provided with full details of the proposed replacement windows, which apparently come from the Masterframe 'Bygone' range, but I acknowledge that these would be of high-quality design and materials, and would be similar in many respects to the prevailing wooden frames, albeit with some variations. However, in the earlier appeal case in Shrewsbury (Ref: APP/L3245/D/23/3322347) the replacement frames were within a detached house, set back further than the adjacent houses, and were already in existence, such that the appeal referred to a 'retrospective' application.
8. The inspector in this case noted that the fact that the appeal building was detached, helped to make any differences with other properties hardly discernible. One such difference was the inclusion of central ventilation bars that were not a characteristic of sash windows in the area. In this earlier case, therefore, the windows would have appeared uniform only in the context of the detached house, and the fact that the house was detached served to make any differences with nearby properties less obvious.
9. In the current case, the windows would be seen clearly in the context of other nearby houses in the same terrace, and differences in design would be more obvious. The existing uPVC windows in the terrace appear to be of generally good quality and are of similar design, but with noticeable minor differences, including corner jointing/treatment and width/depth of frame surround. From the submitted planning statement, it would appear that such differences would also apply to the proposed replacements.
10. The appellant has made reference in his appeal statement to the Historic England Guidance Note "Traditional Windows: their care, repair and upgrading", 2017, (HEGN). I note that this document recommends repair of traditional windows above replacement, and that, if the window is beyond repair, that the replacement window should match the form, detailing and operation of the window to be copied. In particular, the profiles of all the window components including head, jambs and cill of the frame and the stiles, rails and glazing bars of the sashes or casements should be copied, while old glass should be carefully salvaged and reused.
11. I have no details as to whether the windows in the appeal property could be repaired or whether they are beyond repair. They do not appear as being beyond repair. In any case, while the proposed window types would replicate the existing frames in many respects, there would be differences which would be apparent, albeit slight. Moreover, just because there are already a number of uPVC frames along the terrace, this does not automatically mean that another example, even one of high quality design, would not be harmful to the character or appearance of the

area by reason of further diluting the local distinctiveness of the design and materials of the majority of the windows in the terrace.

12. The appellant contends that, even if the proposal were considered to be harmful to the character and appearance of the CA, the harm would be less than substantial and would be at the lowest end of the spectrum, and that it would be outweighed by benefits of improved energy efficiency. I accept that the harm would be less than substantial, but the HEGN indicates that energy efficiency can also be improved by utilisation of draught-proofing measures and use of secondary glazing. It notes that some of these measures enable buildings that retain historic windows to be more energy efficient than buildings whose windows are simply replaced with double glazed units. In such cases, similar benefits could be achieved without the harm of using uPVC frames that present differences from the traditional forms.
13. In conclusion, I find that the proposed frames would be harmful to the character and appearance to Primrose Terrace and, therefore, the wider CA, albeit to a small extent. The harm would be less than substantial but would not be outweighed by the limited benefits of improved energy efficiency at the front of the house, particularly given that such benefits could potentially also be achieved by repair and maintenance measures taken with regard to the existing traditional frames or by use of new bespoke timber framed windows. On this basis, the proposal would conflict with national policy relating to conserving and enhancing the historic environment, as set out in paragraphs 212-215 of the National Planning Policy Framework, and also with Policies CS6 and CS17 of the CS, and with Policies MD2 and MD13 of the SAMDev. Accordingly, I dismiss the appeal.

*J D Westbrook*

INSPECTOR

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