



Shropshire Council  
Legal and Democratic Services  
Guildhall,  
Frankwell Quay,  
Shrewsbury  
SY3 8HQ

Date: Monday, 10 March 2025

**Committee:**  
**Northern Planning Committee**

**Date:** Tuesday, 18 March 2025

**Time:** 2.00 pm

**Venue:** The Council Chamber, The Guildhall, Frankwell Quay, Shrewsbury, SY3 8HQ

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  
Julian Dean  
Roger Evans  
Pamela Moseley  
Nat Green  
Alex Wagner  
Vince Hunt (Vice Chairman)  
Paul Wynn (Chairman)

**Substitute Members of the Committee**

Roy Aldcroft  
Caroline Bagnall  
Andy Boddington  
Steve Charmley  
Mary Davies  
David Evans  
Julia Evans  
Nick Hignett  
Ed Potter  
Colin Taylor

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 18 February 2025, attached, marked 2.

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

## **3 Public Question Time**

To receive any public questions or petitions from the public, notice of which has been given in accordance with Procedure Rule 14. The deadline for this meeting is 12 noon on Wednesday 12 March 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 Meadowland, Sleaf, Harmer Hill, Shrewsbury, Shropshire, SY4 3HE (24/02735/EIA) (Pages 5 - 22)**

Variation of conditions 2 (approved plans) and 9 (bird numbers) and removal of conditions 5 (scheme for air scrubbing on Unit 1) and 7 (installation of air scrubbers) attached to planning permission 22/02001/EIA

## **6 Chapel Cemetery Longden Road Shrewsbury Shropshire (24/04501/LBC) (Pages 23 - 30)**

To add individual memorial/commemorative plaques made of natural stone materials to interior elevations of cloister walls and similar.

## **7 Appeals and Appeal Decisions (Pages 31 - 58)**

## **8 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 22 April 2025 in the Guildhall, Frankwell Quay, Shrewsbury.

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## Committee and Date

Northern Planning Committee

18<sup>th</sup> March 2025

## **NORTHERN PLANNING COMMITTEE**

### **Minutes of the meeting held on 18 February 2025**

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

**2.00 - 3.22 pm**

**Responsible Officer:** Emily Marshall

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

### **Present**

Councillor Paul Wynn (Chairman)

Councillors Joyce Barrow, Garry Burchett, Geoff Elner, Julian Dean, Roger Evans, Pamela Moseley, Nat Green, Alex Wagner and Vince Hunt (Vice Chairman)

### **62 Apologies for Absence**

None received.

### **63 Minutes**

#### **RESOLVED:**

That the Minutes of the meeting of the North Planning Committee held on 21<sup>st</sup> January 2025 be approved as a correct record and signed by the Chairman.

### **64 Public Question Time**

There were no public questions or petitions received.

### **65 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.

### **66 Land Off Walkmill Road, Walkmill Road, Market Drayton, Shropshire (24/01359/FUL)**

The Principal Planning Officer introduced the application for the erection of three detached bungalows including formation of single shared vehicular access, provision of new vehicular access to paddock and provision of two metre wide footpath. The Principal Planning Officer reported in terms of the public benefit, that since publication of the planning officers report Shropshire Council's Cabinet had agreed the housing supply position to be at 4.73 years. The result of this meant that the tilted balance of the NPPF was engaged, resulting in Shropshire Council's most important housing policies to be considered out of date and planning applications would be determined in favour of sustainable development, in recognition of the

need to boost its housing supply. The development of three dwellings would boost housing supply and it had therefore attached significant weight.

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

In accordance with the Local Protocol for Councillors and Officers dealing with Regulatory Matters (Part 5, Paragraph 15.1) the Council's Solicitor read out at statement from Councillor Richard Nellins, as local ward councillor.

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

During the ensuing debate, Members expressed their sympathy with the comments made by local residents, however they felt that although finely balanced, the benefits of the proposed development outweighed the harm.

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

**RESOLVED:**

That planning permission be granted subject to the satisfactory completion of a Section 106 agreement to secure the Biodiversity Net Gain for 30 years, and conditions set out in Appendix 1.

**67 Meadowland, Sleaf, Harmer Hill, Shrewsbury, Shropshire, SY4 3HE (24/02735/EIA)**

The Principal Planning Officer advised the committee that consideration of this application had been deferred.

**RESOLVED:**

Application deferred.

**68 Riverside Mall, Pride Hill Centre, Pride Hill, Shrewsbury, Shropshire, SY1 1PH (24/04035/FUL)**

The Principal Planning Officer introduced the application for the construction of a new two way road, junction arrangements at Smithfield Road and Raven Meadows, re-located bus lay-by on Smithfield Road, landscape works, servicing arrangements and associated highway works. Members' attention was drawn to the information contained within the Schedule of Additional letters. The Principal Planning Officer reported a further update, to condition five to delete the word 'demolition' and additional public comments which were summarised for the Committee.

In accordance with the Local Protocol for Councillors and Officers dealing with Regulatory Matters (Part 5, Paragraph 15.1) Councillor Nat Green, as local ward

councillor, made a statement and then moved to the back of the room, took no part in the debate and did not vote on this item.

Councillor Gary Burchett reported that this application was near to the Shrewsbury Beaconsfield Club, which was owned by the Conservative Association, however this did not amount to a pecuniary interest.

During the ensuing debate, some members expressed concern about the lack of information in relation to cycle provision and also that the applications coming to committee individually did not allow the committee to envisage the site as a whole. Whilst Members concerns were noted, the Solicitor reminded the Committee that they must only consider the application before them and this was one part of an overall development. The Principal Planning Officer explained that this could be considered an enabling development and there would be subsequent applications in relation to connectivity and accessibility.

Having considered the submitted plans and listened to the comments made by all of the speakers, the majority of members expressed their support for the proposals.

**RESOLVED:**

That planning permission be granted subject to the conditions set out in Appendix 1 and an updated condition list.

**69 Laurel Cottage, 23 Church Lane, Ash Magna, Whitchurch, Shropshire (24/04696/FUL)**

The Area Planning Manager introduced the application for the erection of two storey side extension.

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

**RESOLVED:**

That planning permission be granted subject to the conditions set out in Appendix 1.

**70 Appeals and Appeal Decisions**

**RESOLVED:**

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

**71 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 18<sup>th</sup> March 2025 in the Shrewsbury Room, Guildhall, Shrewsbury.

Signed ..... (Chairman)

.....

Date: .....  
.....



Committee and date

**North Planning Committee**

18<sup>th</sup> March 2025

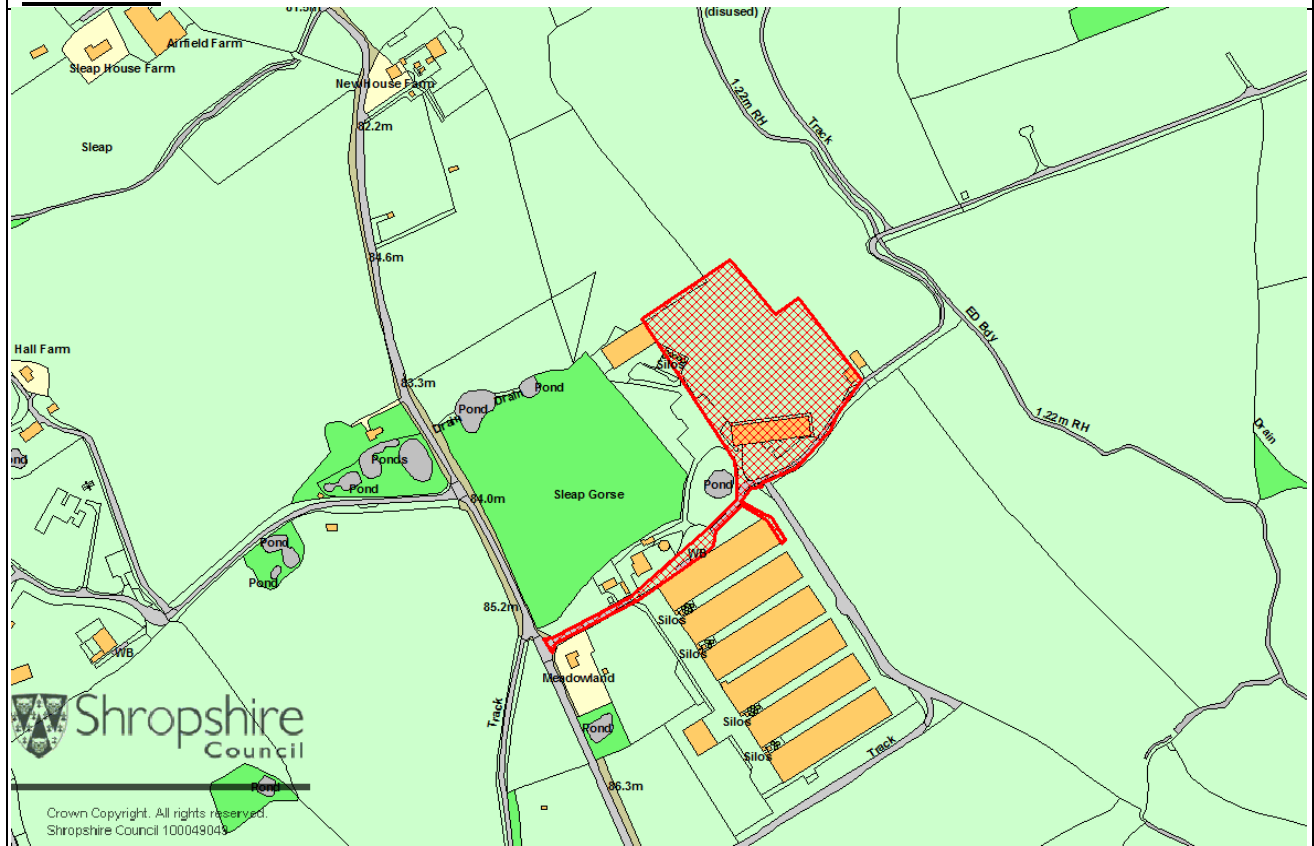
## Development Management Report

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

### Summary of Application

<b><u>Application Number:</u></b> 24/02735/EIA	<b><u>Parish:</u></b>	Myddle Broughton & Harmer Hill
<b><u>Proposal:</u></b> Variation of conditions 2 (approved plans) and 9 (bird numbers) and removal of conditions 5 (scheme for air scrubbing on Unit 1) and 7 (installation of air scrubbers) attached to planning permission 22/02001/EIA		
<b><u>Site Address:</u></b> Meadowland, Sleap, Harmer Hill, Shrewsbury, Shropshire, SY4 3HE		
<b><u>Applicant:</u></b> Mr David Grocott		
<b><u>Case Officer:</u></b> Richard Denison	<b><u>Email:</u></b> richard.denison@shropshire.gov.uk	

**Grid Ref:** 349039 - 326092



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**Recommendation:** Grant permission subject to the satisfactory completion of a Section 106 agreement to restrict the overall number of birds on the broiler unit at Meadowlands and retrofit heat exchanger to each of the size existing poultry sheds, and conditions set out in Appendix 1.

## REPORT

<b>1.0</b>	<b>THE PROPOSAL</b>
1.1	This application was deferred from the Northern Planning Committee on the 18 <sup>th</sup> February 2025 due to a procedural issue. The application is to vary conditions attached to a previous planning permission which if granted would conflict with the original description of development. A variation application cannot change the description of development and therefore a lawful decision could not have been made. The applicant therefore submitted a non-material amendment application to planning permission 22/02001/EIA to simplify the description of development (ref. 25/00643/AMP). However, this does not alter the proposed development on the approved plans. The non-material amendment application was approved on the 25 <sup>th</sup> February 2025 and changed the description to 'Erection of three additional poultry units with associated works and infrastructure'. This has simplified the description of works and ultimately removed any reference to air scrubbers which this current variation application seeks to remove. The following text is identical to that which was published for the Northern Planning Committee in February.
1.2	Planning permission was granted in March 2023 under application reference 22/02001/EIA for the <i>“Erection of three additional poultry units with associated air scrubber units, control rooms, feed blending rooms, feed bins, hard standings, dirty water tanks and a drainage attenuation pond, together with retrofitting an air scrubber unit to an existing poultry shed”</i> . This current application seeks to vary conditions 2 (approved plans) and condition 9 (bird numbers), and to remove condition 5 (scheme for air scrubbing on Unit 1) and condition 7 (installation of air scrubbers). This essentially seeks to change two elements of the planning permission which are in relation to the approved ammonia mitigation strategy and the bird numbers.
1.3	The proposed site capacity will change from: <ul style="list-style-type: none"> <li>• 318,000 birds in 6 buildings (no ammonia mitigation); to</li> <li>• 363,795 birds in 9 broiler sheds all with heat exchangers.</li> <li>• The extant permission is for 460,500 birds in 9 broilers sheds (with air scrubbers on 4 buildings)</li> </ul>
1.4	The reason for the proposed changes is due to the applicant reducing the bird numbers to 30kg birds per square metre on the whole site which is the required stocking maximum of 'RSCPA assured' higher welfare accommodation for broilers.
1.5	The application has been accompanied by a site location plan, block plan, elevations and floor plans, Design & Access Statement, Flood Risk & Drainage Assessment, Landscape & Visual Impact Assessment, Transport Statement,

	Noise Impact Assessment, Odour Report, Ammonia Report and Environment Statement.
1.6	The original application 22/02001/EIA was considered Schedule 1 development under the Town and Country Planning (Environmental Impact Assessment) Regulations 2017 and was subject to a detailed Environmental Impact Assessment. Whilst this current application is only considering amendments to specific environmental matters regarding emissions and does not require a whole new assessment of the development, the resultant total bird numbers nonetheless remain above the threshold as set out in Schedule 1 of the EIA Regulations, and therefore the proposed development is EIA development and determined accordingly. Although this application has not been subject to a formal scoping exercise of the environmental impact officers agree with the applicant's assessment as indicated in the submitted Environmental Statement and accompanying supporting documents.
<b>2.0</b>	<b>SITE LOCATION/DESCRIPTION</b>
2.1	The site is located at Meadowlands, an 18.6 hectare farm at Sleaf, and is an existing poultry enterprise. There are six modern poultry buildings at the farm, developed through 2014 to 2017 with a housing capacity of 318,000 broilers. The site is within the Parish of Myddle, Broughton and Harmer Hill and sits in an area of countryside. Sleaf is located approximately 3km to the south of the market town of Wem and is made up of sporadic houses and farms, the private airfield operated by Sleaf Aero Club and a small number of other businesses.
2.2	Access to the site is via the minor road known as Burma Road, which is accessed off the B5476 Shrewsbury to Wem Road. Wem, Clive and Myddle are all approximately 3km from the site and Loppington is 3.75km away. There are a small number of houses and farms in Sleaf, it is not an identified settlement in the SAMDEV Plan but is recognisable on an OS map. The site is therefore considered to be countryside in planning terms with the main use being the airfield which is still in active use by small aircraft.
<b>3.0</b>	<b>REASON FOR COMMITTEE DETERMINATION OF APPLICATION</b>
3.1	The application is considered Schedule 1 development in accordance with Environment Impact Assessment Regulations. As such the application requires Committee consideration.
<b>4.0</b>	<b>COMMUNITY REPRESENTATIONS</b>
<b>4.1</b>	<b>Consultee Comments</b>
4.1.1	<b>Shropshire Council, Highways</b> - The proposed development raises no fundamental concerns the highways perspective and there are no objections to the proposed variations.
4.1.2	<b>Shropshire Council, Ecology</b> - No objection is raised with regards to the proposed change from air scrubbers (on the new buildings and 1 existing building) to heat exchangers (on all existing and proposed buildings). The predicted emissions from the proposed scenario are lower than the permitted scenario,

	<p>which was already a betterment to the current situation. In fact, the betterment is even better than shown because the ammonia modelling has used a 10km screening distance, where we would only have required 5km now (compared to 2022). The Environmental Statement confirms that manure will be taken to the Anaerobic Digester plant in Whitchurch. As a result, the impacts of waste disposal have been scoped out of the Environmental Impact Assessment process as the Anaerobic Digester plant is a licensed waste facility which is allowed to process poultry manure and is subject to its own Environmental Assessment and Environmental Permit. The proposed amendments to the scheme involve a reduction in bird numbers and hence manure generation will be reduced.</p>
4.1.3	<p><b>Shropshire Council, Drainage</b> - The variations are unlikely to increase flood risk and therefore are acceptable.</p>
4.1.4	<p><b>Shropshire Council, Regulatory Services</b> - Having reviewed the information provided by the applicant, we concur with the findings of the reports that odour and noise impact will be low at the nearest properties.</p>
4.1.5	<p><b>Shropshire Council, Landscape Consultants</b> - This proposed site is relatively small in landscape and visual terms and will not have any significant landscape and visual impact subject to the landscape mitigation proposal. The amendments to the design and layout of the development are negligible.</p>
4.1.6	<p><b>Environment Agency</b> - We previously commented on the associated application 22/02001/EIA, where we advised of the Environmental Permitting requirement for this operation and confirmed what would be controlled by the permit. These comments remain relevant. As detailed within the Design &amp; Access statement, the business is now proposing to reduce the stocking density across the whole site by 21% and remove 4 x air scrubbers and replace with 9 x heat exchangers. We did not recommend the above planning conditions that the applicant is now seeking to vary. However, we can confirm that the permit (SP3737FF) was varied (May 2023) to reflect these requirements. Therefore, the current permit does contain conditions that state that houses 1 and 7 to 9 have air scrubbers to reduce ammonia emissions and that houses 1 to 6 have heat exchangers. A copy of the variation is attached for your reference). A variation to the permit will now be required to remove the requirement for air scrubbers and to reflect the new emissions points. The applicant is advised to contact our National Permitting Service for further information. We can confirm that the existing site is well managed; only one unsubstantiated odour complaint has been received this year.</p>
4.1.7	<p><b>Myddle Broughton and Harmer Hill Parish Council</b> - A formal response has been received raising no comment.</p>
4.2	<p><b>Public Comments</b></p>
4.2.1	<p>No public representations have been received.</p>
5.0	<p><b>THE MAIN ISSUES</b></p>
	<ul style="list-style-type: none"> <li>• Background</li> <li>• Environmental Impact Assessment</li> <li>• Impact on Residential Amenity</li> </ul>

	<ul style="list-style-type: none"> <li>• Landscape and Visual Impacts</li> <li>• Drainage</li> <li>• Highways</li> <li>• Ecology</li> </ul>										
<b>6.0</b>	<b>OFFICER APPRAISAL</b>										
<b>6.1</b>	<b>Background</b>										
6.1.1	Meadowlands is an established poultry farm, which extends to six poultry houses which are used for broiler rearing. Five of the existing poultry houses were constructed in 2013, and the sixth as an expansion in 2016.										
6.1.2	All of the existing poultry houses are identical, and of standard poultry house construction, formed from steel portal frames, with the external cladding being polyester coated profile sheeting in Olive Green. The existing poultry houses are equipped with automated feeders and drinkers, and a high-speed roof mounted ventilation system. The existing poultry houses each accommodate up to 53,000 birds per flock, with the site having a total capacity of 318,000 birds.										
6.1.3	The applicants propose to expand their poultry farming operations on the site through the erection of additional poultry sheds. Planning permission was granted on the 9 <sup>th</sup> March 2023 for three additional poultry sheds under application reference 22/02001/EIA. This current application seeks to vary conditions 2 and 9 of planning permission 22/02001/EIA and remove conditions 5 and 7. Essentially, this amendment proposes to reduce the stocking density on the whole farm by 21%, and seeks to remove the four air scrubbers, and replace these with nine heat exchangers.										
6.1.4	<p>The approved development provided three additional poultry houses with associated control rooms, feed blending rooms, feed bins, hard standings, dirty water tanks, and an attenuation pond, together with heat exchangers. The proposal also seeks to retrofit exchangers to the existing six poultry houses on the site and this element is proposed to be controlled by a Section 106 agreement. The detailed elements of the site expansion scheme which was approved in 2023 are shown in the table below.</p> <table border="1"> <thead> <tr> <th>Element</th><th>Description</th></tr> </thead> <tbody> <tr> <td>Poultry Houses</td><td>Three Poultry Houses measuring 117m x 20.42m with an eaves height of 3.3m and a ridge height of 6.114m.</td></tr> <tr> <td>Control Rooms</td><td>Three control rooms attached to the south elevation of the new poultry houses, measuring 12.510m x 4m with an eaves height of 3.3m and a ridge height of 6.114m.</td></tr> <tr> <td>Feed Blending Rooms</td><td>Two feed blending rooms, measuring 4m x 3m with an eaves height of 2.9m and ridge height of 3.446m.</td></tr> <tr> <td>Hard standings</td><td>Concrete Aprons to the north and south of the proposed poultry houses.</td></tr> </tbody> </table>	Element	Description	Poultry Houses	Three Poultry Houses measuring 117m x 20.42m with an eaves height of 3.3m and a ridge height of 6.114m.	Control Rooms	Three control rooms attached to the south elevation of the new poultry houses, measuring 12.510m x 4m with an eaves height of 3.3m and a ridge height of 6.114m.	Feed Blending Rooms	Two feed blending rooms, measuring 4m x 3m with an eaves height of 2.9m and ridge height of 3.446m.	Hard standings	Concrete Aprons to the north and south of the proposed poultry houses.
Element	Description										
Poultry Houses	Three Poultry Houses measuring 117m x 20.42m with an eaves height of 3.3m and a ridge height of 6.114m.										
Control Rooms	Three control rooms attached to the south elevation of the new poultry houses, measuring 12.510m x 4m with an eaves height of 3.3m and a ridge height of 6.114m.										
Feed Blending Rooms	Two feed blending rooms, measuring 4m x 3m with an eaves height of 2.9m and ridge height of 3.446m.										
Hard standings	Concrete Aprons to the north and south of the proposed poultry houses.										

	Dirty Water Tanks	One SSAFO certified dirty water tanks.
	Drainage Attenuation Pond	Sustainable Drainage System
	Heat Exchangers (on site)	Three Big Dutchman Earny 2 Heat Exchanges
	Heat Exchangers (off site)	Retrofit six Big Dutchman Earny 2 Heat Exchangers to the existing six poultry sheds.
	<p>The additional poultry sheds approved under 22/02001/EIA have a capacity of 142,500, taking the overall capacity of the farm up to 460,500 birds. As part of the amendment proposals, the business is permanently adopting the new high welfare stocking density which therefore represents the 21% reduction in bird numbers on the whole site. Post development, the whole site will be stocked at a maximum of 363,795 birds.</p>	
6.1.5	<p>The use of the development will be for the rearing of broiler chickens. Birds will be delivered to the site as old chicks, and reared within the buildings for 38 days, at which point they will be removed live to the processors and enter the food chain. Following the removal of each flock of birds, the buildings will be mucked out, power washed, dried, bedded with shavings and pre heated in readiness for the next flock of birds. The cleaning and building preparation process takes around 10 days. All manure and dirty water generated by the existing poultry units is currently disposed of via the applicants existing biogas plant at Whitchurch. The additional manure and dirty water arising the expanded development will also be directed to the applicant's biogas plant at Whitchurch. The existing and proposed buildings will operate on an all-in all-out basis, with all nine poultry houses stocked and de stocked at the same time.</p>	
	<u>Ammonia Mitigation Strategy</u>	
6.1.6	<p>Meadowlands Poultry Unit currently extends to six poultry sheds which provide accommodation for 318,000 birds. The approved development seeks to expand the poultry unit through the erection of three additional poultry sheds and includes mitigation for ammonia impacts through the installation of air scrubbing units on the three additional sheds, together with retrofitting of an air scrubber on one of the existing sheds. This mitigation is secured by the planning permission by virtue of condition 2 (approved plans) and conditions 5 (scheme for air scrubbing on Unit 1) and 7 (installation of air scrubbers).</p>	
6.1.7	<p>The applicants are seeking to amend the ammonia mitigation strategy associated with the development through the removal of the air scrubbers from the approved plans. An alternative scheme is proposed to mitigate ammonia impacts which is twofold, and includes the adoption of the new higher welfare, lower stocking density across the whole farm, together with the installation of nine heat exchanger units to all poultry houses on the site (6 existing and 3 proposed). This alternative scheme, which includes a reduction in the number of birds and the new heat exchangers, is a betterment in that the emissions will be lower than the</p>	

	previously approved scheme and will therefore have less impact on the environment.
	<u>Reduction in Stocking Density</u>
6.1.8	The applicants propose to permanently move the whole of the farm over to the new lower stocking density of 30kg/m <sup>2</sup> which represents a 21% reduction in bird numbers on the site. Planning permission 22/02001/EIA is based on the expanded farm being stocked at a maximum of 460,500 birds. Under the new higher welfare stocking density, this figure will reduce to 363,795 birds on the whole expanded site. It is proposed to control the stocking density through an amendment to condition 9, and within a proposed Section 106 agreement.
	<u>Installation of Heat Exchangers</u>
6.1.9	The development seeks to implement ammonia mitigation through the installation of nine Big Dutchman Earny 2 heat exchangers on the site which achieve a reduction in ammonia of 35%. This includes retrofitting heat exchangers to the existing six poultry sheds, and installation of three heat exchangers to the proposed three poultry sheds. As part of the proposed mitigation is outside of the red line of planning permission 22/02001/EIA, it is proposed to control this through the proposed Section 106 agreement.
	<u>Variation of Condition 9</u>
6.1.10	Condition 9 (bird numbers) of planning permission 22/02001/EIA states:  <i>“No more than 142,500 birds shall be kept in the buildings hereby approved at any one time. The broiler unit as a whole at Meadowlands Poultry Ltd, Meadowlands, Sleaford, SY4 3HE shall house no more than 460,500 birds at any one time. Records of the number of birds delivered to the site during each cycle shall be made and these shall be made available to the local planning authority on request”.</i>
6.1.11	It is proposed to vary condition 9 to the following wording:  <i>“No more than <b><u>112,575</u></b> birds shall be kept in the buildings hereby approved at any one time. The broiler unit as a whole at Meadowlands Poultry Ltd, Meadowlands, Sleaford, SY4 3HE shall house no more than <b><u>363,795</u></b> birds at any one time. Records of the number of birds delivered to the site during each cycle shall be made and these shall be made available to the local planning authority on request”.</i>
	<u>Removal of Conditions 5 and 7</u>
6.1.12	Conditions 5 (scheme for air scrubbing on Unit 1) and 7 (installation of air scrubbers) of planning permission 22/02001/EIA relate to the installation and operation of the air scrubbers. It is proposed to remove these conditions from the planning permission.
	<u>Evidence Base Support the Proposed Amendments</u>

6.1.13	The proposed amendments to the scheme are extremely limited, and simply relates to the mitigation measures and equipment to be used as ammonia abatement techniques. The changes in the technical specification of the poultry sheds will result in a change to the emissions profiles for ammonia and odour, and a change to the noise emissions due to the different equipment being used.
6.1.14	<p>In order to demonstrate the different impacts of the proposed development, updated assessments have been submitted in terms of Ammonia, Odour and Noise Assessments. The updated assessments are:</p> <ul style="list-style-type: none"> <li>• Ammonia Emissions Impact Assessment (Isopleth, June 2024)</li> <li>• Odour Impact Assessment (Isopleth, June 2024)</li> <li>• Noise Impact Assessment (Matrix, 25<sup>th</sup> June 2024)</li> </ul>
6.2	<b>Environmental Impact Assessment</b>
6.2.1	The Town and Country Planning (Environmental Impact Assessment) Regulations 2017 specify that Environmental Impact Assessment (EIA) is mandatory for proposed development involving the intensive rearing of poultry where the number of broiler birds is 85,000 or more. As such the previous application 22/02001/EIA for the three poultry units was classed as Schedule 1: 17(a) EIA development as the number of birds on site would be 142,500. However, under Schedule 1: (24) of the EIA regulations it states that “ <i>Any change to or extension of development listed in this Schedule where such a change or extension in its self meets the thresholds, if any, or description set out in this Schedule</i> ”. Although the proposed application results in the reduction of the total number of birds by 29,925 this would still result in the development of the three poultry units exceeding the 85,000 threshold. Therefore, the development would exceed the threshold on 17(a) and would be Schedule 1 EIA development. On this basis, this application has been accompanied by an Environmental Statement.
6.3	<b>Impact on Residential Amenity</b>
6.3.1	Policy CS6 ‘Sustainable Design and Development Principles’ of the Shropshire Core Strategy indicates that development should safeguard the residential and local amenity.
	<u>Poultry Buildings</u>
6.3.2	Having regard to the distance away from neighbouring properties and low height the proposed poultry houses will not result in any detrimental impact from causing any overbearing impact or loss of light.
	<u>Noise</u>
6.3.3	The Noise Impact Assessment, undertaken in accordance with BS4142, demonstrates that the likely noise impacts of the proposed amendment to the scheme will be low. The Council Environmental Protection Officer has raised no objection to the application.
	<u>Odour</u>

6.3.4	The Odour Impact Assessment predicts that the odour impacts of the proposed amendment to the scheme will be lower than the impacts of the extant planning permission 22/02001/EIA. The Council Environmental Protection Officer has raised no objection to the application.												
	<u>Light Pollution</u>												
6.3.5	The development will not require 24 hour external lighting and any lighting will be on motion sensors limiting the time any lighting is on and will be directed towards the ground. The existing site has not raised any concerns regarding light pollution and officers on the previous application did not consider that the addition of three poultry units would lead to any significant light pollution.												
6.4	<b>Landscape and Visual Impacts</b>												
6.4.1	The proposed heat exchanger equipment measures 2.4 metres wide by 5 metres long to a height of 2.2 metres with an exhaust to a height of 3.9 metres. The equipment will be sited on a concrete pad and positioned mid-way along the length of the building. Having regard to the position, the existing and proposed poultry units will screen the equipment. The changes to the layout and scale of the development are negligible, and therefore, the previously prepared Landscape and Visual Impact Assessment (dated 29 <sup>th</sup> July 2022) remains valid. The Council Landscape Consultant has raised no objection to the application.												
6.5	<b>Drainage</b>												
6.5.1	The changes to the layout and scale of the development are negligible, and therefore, the previously prepared Flood Risk and Drainage Assessment (April 2022) remains valid. The Council Drainage Team have raised no objection to the application												
6.6	<b>Highways</b>												
6.6.1	<p>Planning application 22/02001/EIA was accompanied by a Transport Statement prepared by Hurlstone Associates (April 2022). As part of the proposed amendments, the capacity of the site in terms of bird numbers will be reduced from the approved 460,500 birds down to 363,795 birds. Traffic generation on a poultry unit is intrinsically linked to the number of birds accommodated on the farm. As this amendment involves a significant reduction in the proposed bird numbers on the site, the Transport Statement is now an over estimation of the highway impacts of the proposed development. The following table shows the traffic generation impacts of the proposed amendment.</p> <table><tr><th>Activity</th><th>Vehicle Size</th><th>Approved Scenario (460,500 birds)</th><th>Proposed Higher Welfare Scenario (363,795 birds)</th></tr><tr><td>Chick Delivery</td><td>16.5m Articulated HGV</td><td>7</td><td>5</td></tr><tr><td>Feed Delivery</td><td>16.5m Articulated</td><td>50</td><td>39</td></tr></table>	Activity	Vehicle Size	Approved Scenario (460,500 birds)	Proposed Higher Welfare Scenario (363,795 birds)	Chick Delivery	16.5m Articulated HGV	7	5	Feed Delivery	16.5m Articulated	50	39
Activity	Vehicle Size	Approved Scenario (460,500 birds)	Proposed Higher Welfare Scenario (363,795 birds)										
Chick Delivery	16.5m Articulated HGV	7	5										
Feed Delivery	16.5m Articulated	50	39										

		HGV		
	Bird Collection	16.5m Articulated HGV	57	45
	Manure Removal	16.5m Articulated HGV	24	19
	Dirty Water Removal	Tanker	12	7
	Carcass Collection	7.5 tonne rigid LGV	5	5
	Fuel Delivery	16.5m Articulated HGV	6	5
	Shavings Delivery	16.5m Articulated HGV	3	3
	Total per flock		164 (328 movements)	128 (256 movements)
	<b>Total per annum (7.5 flocks)</b>		<b>1230 (2,460 movements)</b>	<b>960 (1,920 movements)</b>
6.6.2	As demonstrated above, the implication of the proposed amendment to the scheme through the stocking density reduction results in a reduction in traffic generation associated with the site of 540 movements per annum. The Council Highways Officer has raised no objection to the application.			
6.7	<b>Ecology</b>			
6.7.1	The previous application was accompanied by a detailed Ecological Appraisal which was carried out to provide an assessment of the ecological value of the site in local context and to identify potential ecological constraints relating to the development and recommend measures to avoid, reduce or manage negative effects and provide a new ecology gain.			
6.7.2	The proposed biodiversity enhancements for wildlife include the construction of a new attenuation pond, the placement of hedgehog boxes in the bases of hedgerows and the erection of bird and bat boxes on suitable trees within the curtilage of the farm. It was considered that the installation of new ammonia air scrubbers on an existing poultry shed as well as the new poultry sheds would reduce the ammonia emissions from the poultry units as a whole. It was concluded that the proposed ecological protection and enhancements would provide biodiversity net gains with no unacceptable adverse impact on ecology.			
	<u>Emissions</u>			
6.7.3	This variation application has now been accompanied by a revised Ammonia Emissions Impact Assessment which demonstrates that the proposal to reduce the stocking density across the whole farm and install heat exchangers to all poultry houses provides positive benefits and will result in lower ammonia impacts			

	to protected ecological sites than the already consented development application 22/02001/EIA.
6.7.4	The Council Ecology Officer has indicated that the predicted emissions will be lower than the previously approved scheme, which was already a betterment to the current situation at the site. The ammonia modelling has used a 10km screening distance and will not result in any impacts. The Environmental Statement confirms that manure will be taken to the Anaerobic Digester plant in Whitchurch which is a licensed waste facility and allows to process poultry manure and is subject to an Environmental Assessment and Environmental Permit. The proposed amendments to the scheme involve a reduction in bird numbers and hence manure generation will be reduced. The Council Ecology Officer has raised no objection to the application.
6.7.5	The Environment Agency have confirmed that the proposed site is controlled by an Environmental Permit which the applicant is aware will need amending to relate to the change from air scrubbers to heat exchangers. The Environment Agency have confirmed that the site is well managed and has raised no objection.
	<u>Biodiversity Net Gain</u>
6.7.6	This is a Section 73 application as it relates to a variation of conditions to application 22/02001/EIA which was approved on the 9 <sup>th</sup> March 2023. Biodiversity Net Gain does not apply to Section 73 applications where the original planning permission was granted before the 12 <sup>th</sup> February 2024.
	<u>Manure Management</u>
6.7.7	The proposed development will produce 1,052 tonnes less manure than the current scheme approved under application 22/02001/EIA. All of the manure generated by the development will be disposed of via an anaerobic digester plant which would operate under an Environmental Permit to process poultry manure, silage and energy crops. The process is used for managing waste, producing renewable energy, and creating a valuable byproduct for agriculture.
6.7.8	The biogas produced by the anaerobic digester plant consists of 50-70% methane which is a valuable fuel, used to produce electricity and heat. The leftover material, called digestate, is the solid and liquid residue from the digestion process. This digestate is used as a nutrient-rich fertiliser for agricultural applications.
6.7.9	The agent has indicated that the anaerobic digester plants are businesses and need to operate their plants at maximum efficiency, as their revenue is linked to the volume of gas they produce. The manure arising from the application site at Meadowlands is simply a feedstock into the anaerobic digester plant, and in the absence of the availability of this specific manure as a feedstock, the anaerobic digester plant would simply source its feedstock from elsewhere to maintain their biogas production capacity.
6.7.10	The Reduction and Prevention of Agricultural Diffuse Pollution (England) Regulations 2018 (Farming Rules for Water) aims to reduce the risk of water pollution from agricultural activities (including the spreading of the anaerobic

	<p>digester byproduct). The legal requirements control the timing of spreading, provide a buffer zones, control the application rate and method, and ensure land is suitable for digestate, together with the requirement to keep a Nutrient Management Plan and record of spreading.</p>
6.7.11	<p>The Environmental Statement indicates that the development will not produce any effects beyond those which may be experienced within the current farming enterprise. In conclusion the agent has indicated that this current application will result in a substantial reduction in manure volume which is disposed of via a licensed waste facility holding an Environmental Permit which allows the processing of poultry manure.</p>
6.7.12	<p>The production of digestate and its subsequent disposal are as a result of the existence and operation of the anaerobic digester plant. The development is simply a source of anaerobic digester feedstock. The management and subsequent spreading of digestate falls under the legal requirements of the Reduction and Prevention of Agricultural Diffuse Pollution (England) Regulations 2018 (Farming Rules for Water) and by adhering to these rules, the environmental risks associated with digestate spreading are mitigated.</p>
6.7.13	<p>The Environmental Statement indicates that the impacts from manure management are 'none' and the Council Ecology Officer has raised no objection to this process of dealing with the manure waste from this poultry unit.</p>
<b>7.0</b>	<b>CONCLUSION</b>
7.1	<p>It is considered that the Environmental Statement accompanying the application demonstrates that the environmental impacts of the proposed development are not significant and are capable of being effectively controlled and mitigated. The layout, appearance and scale of the poultry houses, together with the additional landscaping belt will remain as previously approved and will minimise its visual impact on the rural landscape and will not have a detrimental impact upon the residential amenities of the surrounding area. The recommended conditions would also be supplemented by detailed operational controls available under the Environment Agency's permitting regime. It is concluded that the proposed reduction in the bird numbers and installation of heat exchangers will improve the proposed operation of this site and are acceptable in relation to relevant development plan policies and guidance.</p>
7.2	<p>This application would be subject to a Section 106 agreement to restrict the overall number of birds on the broiler unit at Meadowlands to no more than 363,795 and retrofit heat exchanger to each of the six existing poultry sheds for the lifetime of the development.</p>
<b>8.0</b>	<b>RISK ASSESSMENT AND OPPORTUNITIES APPRAISAL</b>
<b>8.1</b>	<b>Risk Management</b>
	<p>There are two principal risks associated with this recommendation as follows:</p> <ul style="list-style-type: none"> <li>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</li> </ul>

	<p>awarded irrespective of the mechanism for hearing the appeal - written representations, a hearing or inquiry.</p> <ul style="list-style-type: none"> <li>The decision is challenged by way of a Judicial Review by a third party. The courts become involved when there is a misinterpretation or misapplication of policy or some breach of the rules of procedure or the principles of natural justice. However, their role is to review the way the authorities reach decisions, rather than to make a decision on the planning issues themselves, although they will interfere where the decision is so unreasonable as to be irrational or perverse. Therefore, they are concerned with the legality of the decision, not its planning merits. A challenge by way of Judicial Review must be a) promptly and b) in any event not later than 6 weeks after the grounds to make the claim first arose.</li> </ul> <p>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.</p>
<b>8.2</b>	<b>Human Rights</b>
	<p>Article 8 give the right to respect for private and family life and First Protocol Article 1 allows for the peaceful enjoyment of possessions. These have to be balanced against the rights and freedoms of others and the orderly development of the County in the interests of the Community.</p> <p>First Protocol Article 1 requires that the desires of landowners must be balanced against the impact on residents.</p> <p>This legislation has been taken into account in arriving at the above recommendation.</p>
<b>8.3</b>	<b>Equalities</b>
	<p>The concern of planning law is to regulate the use of land in the interests of the public at large, rather than those of any particular group. Equality will be one of a number of 'relevant considerations' that need to be weighed in planning committee members' minds under section 70(2) of the Town and Country Planning Act 1970.</p>
<b>9.0</b>	<b>FINANCIAL IMPLICATIONS</b>
<b>9.1</b>	<p>There are likely financial implications of the decision and/or imposition of conditions if challenged by a planning appeal or judicial review. The costs of defending any decision will be met by the authority and will vary dependant on the scale and nature of the proposal. Local financial considerations are capable of being taken into account when determining this planning application – in so far as they are material to the application. The weight given to this issue is a matter for the decision maker.</p>
<b>10.0</b>	<b>BACKGROUND</b>
<b>10.1</b>	<b>Relevant Planning Policies</b>

	<p>Policies material to the determination of the Application. In determining this application, the Local Planning Authority gave consideration to the following policies:</p> <p><b>Central Government Guidance:</b> National Planning Policy Framework</p> <p><b>Shropshire Council Core Strategy (February 2011):</b> CS2 : Shrewsbury Development Strategy CS5 : Countryside and Green Belt CS6 : Sustainable Design and Development Principles CS17 : Environmental Networks CS18 : Sustainable Water Management</p> <p><b>Site Allocations and Management Development Plan (December 2016):</b> MD2 : Sustainable Design MD7b : General Management of Development in the Countryside MD12 : Natural Environment</p>												
10.2	<b>Relevant Planning History</b>												
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16/00943/FUL	- Erection of a secondary agricultural occupancy dwelling for a worker and a temporary dwelling available during construction of dwelling. Refused 12 <sup>th</sup> May 2016.
15/01921/EIA	- Erection of a poultry building, an expansion of the existing poultry business on site. Granted 20 <sup>th</sup> August 2015.
14/03641/FUL	- Erection of a farm managers dwelling and residential garage/annex. Granted 12 <sup>th</sup> February 2015.
15/01938/EIA	- Erection of a poultry building, an expansion of the existing poultry business on site. Granted 20 <sup>th</sup> August 2015.
15/01937/EIA	- Erection of a poultry building, an expansion of the existing poultry business on site. Granted 20 <sup>th</sup> August 2015.
13/04582/VAR	- Variation of Condition No. 2 attached to Planning Permission 12/04582/FUL for the construction of a building to house a biomass boiler and fuel store associated with a 150,000 broiler chicken unit (phase 4 of a 5 phase development) to relocate the building to house the biomass boilers to a more central position. Granted 13 <sup>th</sup> February 2014.
12/04582/FUL	- Construction of a building to house a biomass boiler and fuel store associated with a 150,000 broiler chicken unit (phase 4 of a 5 phase development). Granted 7 <sup>th</sup> March 2013.
12/04581/EIA	- Construction of a broiler chicken building to house 50,000 birds (Phase 3 of a 5 Phase development). Granted 7 <sup>th</sup> March 2013.
12/04580/EIA	- Construction of a broiler chicken building to house 50,000 birds (Phase 2 of a 5 Phase development). Granted 7 <sup>th</sup> March 2013.
12/04574/EIA	- Construction of a broiler chicken building to house 50,000 birds (Phase 1 of a 5 Phase development). Granted 7 <sup>th</sup> March 2013.
PREAPP/12/00049	- Broiler Farm accommodating up to 300,000 broiler chickens, including the incorporation of an agricultural workers dwelling. Acceptable Development 24 <sup>th</sup> February 2012.

	<p>NS/06/02560/FUL - Erection of a two-storey dwelling with detached double garage in connection with the existing poultry business. Granted 10<sup>th</sup> January 2007.</p> <p>NS/02/00832/FUL - Siting of mobile home and installation of septic tank drainage system. Granted 2<sup>nd</sup> April 2003.</p> <p>NS/99/10588/FUL - Replacement of mobile home in connection with egg production units and installation of septic tank. Granted 10<sup>th</sup> March 1999.</p> <p>NS/96/00583/FUL - Proposed siting of mobile home in connection with proposed egg production units. Granted 31<sup>st</sup> December 1996.</p> <p>NS/96/00582/FUL - Erection of free-range egg production unit (17.1m x 53.375m x 4.3m high) Unit 2. Granted 30<sup>th</sup> December 1996.</p> <p>NS/96/00581/FUL - Erection of free-range egg production unit (17.1m x 53.375m x 4.3m high) Unit 1. Granted 30<sup>th</sup> December 1996.</p>
-	<b>ADDITIONAL INFORMATION</b>
	List of Background Papers - Planning Application reference 24/02735/EIA
	Cabinet Member (Portfolio Holder) - Cllr Chris Schofield
	Local Member - Cllr Brian Williams
	<p>Appendices</p> <p>APPENDIX 1 - Conditions</p>

## **APPENDIX 1**

### **Conditions**

#### **STANDARD CONDITION(S)**

1. The development hereby permitted shall be begun before the expiration of three years from the date of planning permission 22/02001/EIA granted on the 9<sup>th</sup> March 2023.  
Reason: To comply with Section 91(1) of the Town and Country Planning Act, 1990 (As amended).
2. The development shall be carried out strictly in accordance with the approved plans, drawings and documents as listed in Schedule 1 below.  
Reason: For the avoidance of doubt and to ensure that the development is carried out in accordance with the approved plans and details.
3. The proposed woodland landscaping belt shall be undertaken in accordance with drawing IPA1254-11 prior to the first occupation of the poultry houses hereby approved. The landscape works shall be carried out in full compliance with the approved plan, schedule and timescales. Any trees or plants that, within a period of five years after planting, are removed, die or become, in the opinion of the Local Planning Authority, seriously damaged or defective, shall upon written notification from the local planning authority be replaced with others of species, size and number as originally approved, by the end of the first available planting season.  
Reason: To ensure the provision, establishment and maintenance of a reasonable standard of landscape in accordance with the approved designs.

#### **CONDITION(S) THAT REQUIRE APPROVAL BEFORE THE DEVELOPMENT COMMENCES**

4. No development shall take place until a scheme of foul drainage, and surface water drainage has been submitted to and approved in writing by the Local Planning Authority. The approved scheme shall be fully implemented before the development is occupied/brought into use (whichever is the sooner).  
Reason: The condition is a pre-commencement condition to ensure satisfactory drainage of the site and to avoid flooding.

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

5. Prior to first occupation / use of the buildings, the makes, models and locations of hedgehog, bat and bird boxes shall be submitted to and approved in writing by the Local Planning Authority. The following boxes shall be erected on the site:
  - A minimum of six external woodcrete bat boxes, suitable for nursery or summer roosting for small crevice dwelling bat species.
  - A minimum of six artificial nests, suitable for starlings (42mm hole, starling specific), sparrows (32mm hole, terrace design) and tits 26mm/32mm entrance hole).
  - A minimum of four hedgehog nesting boxes.The boxes shall be sited in suitable locations and where they will be unaffected by artificial lighting. The boxes shall thereafter be maintained for the lifetime of the development.

Reason: To provide enhancements for biodiversity in accordance with MD12, CS17 and section 174 of the NPPF.

6. No above ground works shall take place until details of the external materials and colour treatment of all plant and buildings have been submitted to and approved in writing by the local planning authority. The development shall be undertaken in accordance with the approved details and retained as such for the lifetime of the development.

Reason: To ensure a satisfactory appearance of the development.

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

7. No more than 112,575 birds shall be kept in the buildings hereby approved at any one time. The Broiler unit as a whole at Meadowlands Poultry Ltd, Meadowlands, Sleaf, SY4 3HE shall house no more than 363,795 birds at any one time. Records of the number of birds delivered to the site during each cycle shall be made and these shall be made available to local planning authority on request.

Reason: To prevent adverse impact on designated sites and ancient woodland from ammonia emissions, consistent with MD12 and the NPPF.

8. (a) All manure arising from the poultry buildings hereby permitted shall be taken off site to an anaerobic digester or other suitable disposal or management facility. Manure shall not be exported from the site unless in covered vehicles.  
(b) Records of the destination of each load of manure arising from the poultry buildings hereby permitted shall be made and these shall be made available to the local planning authority on request.

Reason: To minimise adverse impacts on residential amenity and avoid pollution to groundwater.

## AGENDA ITEM



Committee and date

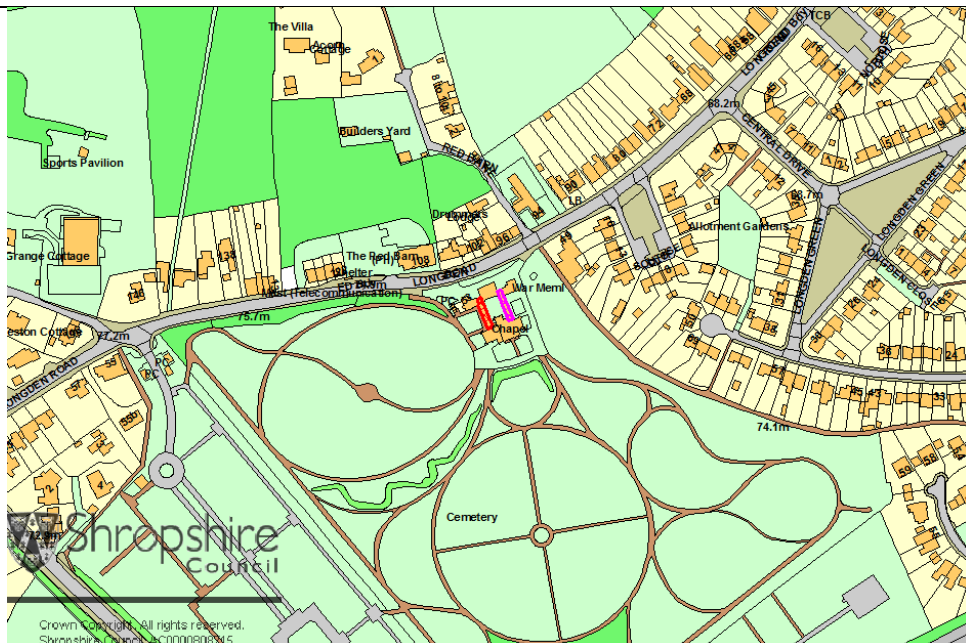
# Development Management Report

Responsible Officer: Andy Wilde, Assistant Director of Growth and Infrastructure

## Summary of Application

<b><u>Application Number:</u></b> 24/04501/LBC	<b><u>Parish:</u></b>	Shrewsbury Town Council
<b><u>Proposal:</u></b> To add individual memorial/commemorative plaques made of natural stone materials to interior elevations of cloister walls and similar.		
<b><u>Site Address:</u></b> Chapel Cemetery Longden Road Shrewsbury Shropshire		
<b><u>Applicant:</u></b> Mr Mark Foxall		
<b><u>Case Officer:</u></b> Karen Rolfe	<b><u>email:</u></b> historic.environment@shropshire.gov.uk	

**Grid Ref:** 348769 - 311359



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**Recommendation:- Grant Listed Building Consent** subject to the conditions set out in Appendix 1.

## REPORT

### 1.0 THE PROPOSAL

- 1.1 This listed building consent application proposes the installation of individual memorial and commemorative plaques to the interior walls of the cloister range to the Grade II listed Shrewsbury Cemetery building positioned on the south side of Longden Road in Shrewsbury. This is an expansion of the small section of the cloister walls which currently have a series of memorial plaques in situ, where this expanded programme of plaque installation would cover additional cloister wall space and where the plaques would be sold to the public on an in-perpetuity basis.
- 1.2 The plaques will be made of natural stone materials in keeping with this historic building, and will be affixed to the internal face of the cloister wall beneath the cloister roof. It is understood that the plaques will be installed by experienced and qualified memorial masons who will ensure that the fixings are such that the impact on the cloister walls are minimal, with drill holes wherever possible made to existing mortar joints and the plaques mounted onto dowels.
- 1.3 The listed Cemetery buildings are owned by Shropshire Council and this listed building consent application has been submitted by the Council's Bereavement Services Manager. A site plan has been submitted with the application which denotes the location of the small section of cloister walls where existing plaques have been fixed, as well as the expanded area of cloister walls where future plaques will be installed.

### 2.0 SITE LOCATION/DESCRIPTION

- 2.1 The Cemetery building is positioned on the south side of Longden Road and forms an attractive set of buildings within the larger Longden Road cemetery of mainly stone construction comprised of chapels and porte-corchere linked by a cloister range with flanking lodges. This Grade II listed building was built in 1856 and designed by Samuel Pountney Smith in a highly Decorated style. The building is listed under list entry number 1270702.
- 2.2 The proposed expansion of plaque installation under this listed building consent application is limited to the cloister walls as indicated on the location and site plans submitted with this application. A photograph of the existing area of cloister wall with plaques installed has also been submitted with the application.

## 3.0 REASON FOR COMMITTEE DETERMINATION OF APPLICATION

- 3.1 The application has been submitted by Shropshire Council and relates to a proposal which is not strictly in line with the Council's statutory functions. Under the Council's Scheme of Delegation, such applications are required to be determined by Planning Committee.

## 4.0 Community Representations

### Consultee Comment

No consultations were requested for this application.

### Public Comments

Shrewsbury Town Council - The Town Council raise no objections to this application.

## 5.0 THE MAIN ISSUES

Principle of development  
Siting and fixing of plaques and memorials  
Visual impact

## 6.0 OFFICER APPRAISAL

- 6.1 Principle of development

- 6.1.1 The installation of plaques and memorials on the walls of institutional buildings such as the cemetery buildings is a common practice and in this case is an expansion of the area currently devoted to the installation of plaques on the walls of the cloister range which forms an integral part of this listed building. It is understood that the plaques and memorials to be sold will be of high quality suitable within the context of the building and in principle there is no heritage objection to the expanded use of the cloister walls for these installations.

- 6.2 Siting and fixing of plaques and memorials

- 6.2.1 It is understood that the fixing of the plaques will be done with great care by specialists in this field. Wherever possible the plaques will be fixed into mortar joints to avoid damage to stone work and thus minimise intervention into historic fabric.

## 6.3 Visual impact

6.3.1 It is understood that the plaques and memorials will be made of high quality materials to a high standard of design and detail and as such these are not expected to have a negative or detrimental visual impact on the cloister walls or on the wider appearance of the listed cemetery buildings.

## 7.0 CONCLUSION

The further use of the cloister range walls to facilitate an expanded memorial plaque installation programme is considered an appropriate and accessible location. The high quality stone plaques will be installed carefully to avoid harm to historic stone fabric comprising the cloister walls, ensuring that the installations respect the significance of the listed building, its appearance and its setting. It is considered that it has been satisfactorily demonstrated that the application meets the requirements of the National Planning Policy Framework (NPPF) as well as the legislative requirements of Section 66 of the Planning (Listed Buildings and Conservation Areas) Act 1990, and local plan policies CS6 and CS17 of the Core Strategy, and MD2 and MD13 of the SAMDev.

## 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:  
Core Strategy policies CS6 and CS17  
SAMDev Plan policies MD2 and MD13

### RELEVANT PLANNING HISTORY:

HEPRE/18/00221 Repairs to the verges on the porte-cochere to the cloister / chapel LBCNRQ  
18th September 2018

-

Chapel

## 11. Additional Information

View details online: <http://pa.shropshire.gov.uk/online-applications/applicationDetails.do?activeTab=summary&keyVal=SNIT1OTDLX200>

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 Kate Halliday

Appendices

APPENDIX 1 - Conditions

## APPENDIX 1

### **Conditions**

#### **STANDARD CONDITION(S)**

1. The development hereby permitted shall be begun before the expiration of three years from the date of this permission.  
Reason: To comply with Section 18 of the Planning (Listed Buildings and Conservation Areas) Act 1990 (As amended).

2. The development shall be carried out strictly in accordance with the approved plans, drawings and documents as listed in Schedule 1 below.  
Reason: For the avoidance of doubt and to ensure that the development is carried out in accordance with the approved plans and details.

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

3. All works shall be carried out in complete accordance with the terms of the application and approved plans, drawings and documents as listed in Schedule 1 below.  
Reason: To ensure the satisfactory preservation of the Heritage Asset.

4. If hitherto unknown architectural evidence of historic character that would be affected by the works hereby permitted is discovered, an appropriate record, together with recommendations for dealing with it in the context of the scheme, shall be submitted for written approval by the Local Planning Authority.  
Reason: To ensure architectural features are recorded during development.

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## SCHEDULE OF APPEALS AS AT COMMITTEE 18.03.2025

<b>LPA reference</b>	24/04030/FUL
<b>Appeal against</b>	Refusal
<b>Committee or Del. Decision</b>	Delegated
<b>Appellant</b>	Mr and Mrs Hebborn
<b>Proposal</b>	Garage extension and carport
<b>Location</b>	131 The Mount Shrewsbury Shropshire SY3 8PG
<b>Date of appeal</b>	31.01.2025
<b>Appeal method</b>	Householder – Fast Track
<b>Date site visit</b>	
<b>Date of appeal decision</b>	
<b>Costs awarded</b>	
<b>Appeal decision</b>	

<b>LPA reference</b>	24/02139/FUL
<b>Appeal against</b>	Refusal
<b>Committee or Del. Decision</b>	Delegated
<b>Appellant</b>	Diane Bepalyl
<b>Proposal</b>	Diane Bepalyl
<b>Location</b>	1 Laundry Cottages Dudleston Heath Ellesmere Shropshire SY12 9LE
<b>Date of appeal</b>	27.02.2025
<b>Appeal method</b>	Householder – Fast Track
<b>Date site visit</b>	
<b>Date of appeal decision</b>	
<b>Costs awarded</b>	
<b>Appeal decision</b>	

<b>LPA reference</b>	24/04210/FUL
<b>Appeal against</b>	Refusal
<b>Committee or Del. Decision</b>	Delegated
<b>Appellant</b>	Ms J Waters
<b>Proposal</b>	Erection of two storey extension
<b>Location</b>	Hillberry Pant Oswestry Shropshire SY10 8LD
<b>Date of appeal</b>	26.02.2025
<b>Appeal method</b>	Written Representations
<b>Date site visit</b>	
<b>Date of appeal decision</b>	
<b>Costs awarded</b>	
<b>Appeal decision</b>	

#### APPEALS DETERMINED

<b>LPA reference</b>	23/05473/CPE
<b>Appeal against</b>	Not Lawful
<b>Committee or Del. Decision</b>	Delegated
<b>Appellant</b>	Mr David Cadwallader
<b>Proposal</b>	Application for a Certificate of Existing Lawful Use for the use of building and yard for B8 storage
<b>Location</b>	Warehouse Known As Unit 2, The Barns Woolston, West Felton
<b>Date of appeal</b>	25.07.2024
<b>Appeal method</b>	Inquiry
<b>Date site visit</b>	
<b>Date of appeal decision</b>	20.02.2025
<b>Costs awarded</b>	
<b>Appeal decision</b>	<b>DISMISSED</b>

<b>LPA reference</b>	21/07980/ENF
<b>Appeal against</b>	Notice served
<b>Committee or Del. Decision</b>	
<b>Appellant</b>	Mr David Cadwallader
<b>Proposal</b>	Without planning permission: i. Material change of use to a mixed use development comprising of oil processing and storage, contactors compound, tourist accommodation, squash court and other leisure/tourism facilities and domestic storage and garaging.
<b>Location</b>	The Barn, Top Farm Woolston, West Felton
<b>Date of appeal</b>	25.07.2025
<b>Appeal method</b>	Inquiry
<b>Date site visit</b>	
<b>Date of appeal decision</b>	
<b>Costs awarded</b>	
<b>Appeal decision</b>	<b>APPEAL FAILS</b>

<b>LPA reference</b>	21/07709/ENF
<b>Appeal against</b>	Appeal against i) Operational development in the form of the erection of a brick wall adjacent to a highway at a height exceeding 1 metre in the location marked with an 'X' on the attached plan.
<b>Committee or Del. Decision</b>	
<b>Appellant</b>	Belford Homes Ltd
<b>Proposal</b>	Without Planning Permission: Operational development in the form of the erection of a brick wall adjacent to a highway at a height exceeding 1 metre in the location marked with an X on the attached plan.
<b>Location</b>	6 Tudor Close Market Drayton Shropshire
<b>Date of appeal</b>	25.11.2023
<b>Appeal method</b>	Written Representations
<b>Date site visit</b>	26.02.2025
<b>Date of appeal decision</b>	27.02.2025
<b>Costs awarded</b>	
<b>Appeal decision</b>	<b>ALLOWED – ENFORCEMENT NOTICE QUASHED</b>

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## Appeal Decisions

Inquiry held on 13-15 and 17 January 2025

Site visit made on 13 January 2025

by **A Walker MPlan MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 20 February 2025

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### **Appeal A Ref: APP/L3245/X/24/3340122**

#### **Unit 2, The Barns, Woolston, Oswestry SY10 8HY**

- 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 David Cadwallader against the decision of Shropshire Council.
- The application ref 23/05473/CPE, dated 19 December 2023, was refused by notice dated 13 February 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 the use of building and yard for B8 storage.

**Summary of Decision: The appeal is dismissed.**

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### **Appeal B Ref: APP/L3245/C/23/3328271**

#### **Land at The Barns, Top Farm, Woolston, West Felton, Oswestry, SY10 8HY**

- The appeal is made under section 174 of the Town and Country Planning Act 1990 (as amended).
- The appeal is made by Mr David Cadwallader against an enforcement notice issued by Shropshire Council.
- The notice was issued on 11 July 2023.
- The breach of planning control as alleged in the notice is the material change of use to a mixed use development comprising of oil processing and storage, contractors compound, tourist accommodation, squash court and other leisure/tourism facilities and domestic storage and garaging.
- The requirements of the notice are to:
  - i. To cease the use of the land for mixed use namely, oil processing and storage, contractors compound, tourist accommodation, squash court and other leisure facilities and domestic storage and garaging.
  - ii. Remove from the land, all stock, stored items, machinery and equipment including from inside unit 1 in association with the unauthorised oil processing and storage use.
  - iii. Remove from the land, all stock, stored items, machinery and equipment, including from inside unit 3 in association with the unauthorised contractors compound use.
  - iv. Remove from the land, all internal walls, glazing etc which forms the squash court, remove the mezzanine floor, pool table, bar fixtures and fittings, changing facilities and all associated seating and tables etc which facilitate the unauthorised leisure uses (unit 4).
  - v. Remove from the land all domestically stored items from unit 4, including but not limited to vehicles. Remove garage doors and reinstate barn walls.
  - vi. Remove from the land all items associated with the tourism accommodation, including but not limited to bed, furniture, fridge and cooking equipment.
  - vii. Demolish the building (unit 1), one marked 'X' in the plan accompanying the notice, which in part facilitated the mixed-use of the site.
  - viii. Remove all stock, stored items, waste, machinery and vehicles from the shared land marked with blue hatching, on the plan accompanying the notice.
  - ix. Dispose of any waste generated by the works to comply with all or any of the steps required by this notice to a site suitable to receive these items.
  - x. Reinstate the land to its former condition prior to the unauthorised works commencing.

- The periods for compliance with the requirement are:
  - i. One month after this notice takes effect to cease the mixed use.
  - ii. Six months after this notice takes effect to undertake the works as set out in steps ii to ix inclusive.
- The appeal is proceeding on the grounds set out in section 174(2)(a), (b), (c), (d), (f) and (g) of the Town and Country Planning Act 1990 (as amended). Since an appeal has been brought on ground (a), an application for planning permission is deemed to have been made under section 177(5) of the Act.

**Summary of Decision: The appeal is dismissed, the enforcement notice is upheld with corrections and variations in the terms set out below in the Formal Decision and planning permission is refused on the application deemed to have been made under section 177(5) of the 1990 Act as amended.**

## Appeal B – The Notice

1. Section 173(1)(a) of the Town and Country Planning Act 1990 (the Act) states 'An enforcement notice shall state the matters which appear to the local planning authority to constitute the breach of planning control'. S173(2) goes on to state that 'A notice complies with subsection (1)(a) if it enables any person on whom a copy of it is served to know what those matters are.' A notice is a nullity if it is 'hopelessly ambiguous and uncertain so that the owner or occupier could not tell in what respect it was alleged that he had developed the land without permission'<sup>1</sup>.
2. The steps under section 5 of the enforcement notice (the notice) refer to Units 1, 3 and 4. The plan attached to the notice does not identify the units and therefore it is not clear on the face of it which units are which. However, on site, the units each have a yellow sign identifying their unit number, eg 'Unit 1'. Consequently, when read in conjunction with what is on the ground, it is sufficiently clear which units the notice is referring to. Were I to find the plan attached to the notice to not be sufficiently clear, the Council have provided a revised site plan identifying the unit numbers. For the avoidance of doubt, I shall substitute the plan attached to the notice with the revised plan.
3. The Council concede that the use taking place in Unit 1 does not involve oil processing. There is no dispute that at the time the notice was issued it was used for storage only. Accordingly, I shall omit the reference to 'oil processing' from the alleged breach of planning control.
4. The plan attached to the notice includes Unit 2 within the land edged red. Therefore, it forms part of the land to which the notice relates. The Council confirm that Unit 2 was not in use at the time the notice was issued and therefore its lawful agricultural use should be included in the overall alleged mixed-use of the site. As the Council do not seek to enforce against the agricultural use of the site, I shall correct the allegation to include agriculture as a component of the mixed-use without causing injustice to any party.
5. S173(9) of the Act states 'An enforcement notice shall specify the period at the end of which any steps are required to have been taken or any activities are required to have ceased and may specify different periods for different steps or activities; and, where different periods apply to different steps or activities, references in this Part to the period for compliance with an enforcement notice, in relation to any step or activity, are to the period at the end of which the step is required to have been taken or the activity is required to have ceased.'

<sup>1</sup> *Miller Mead v MHLG* [1963] 2 WLR 225

6. Section 6 (i) of the notice states 'One month after this notice takes effect to cease the mixed use.' Whilst it does not explicitly refer to a specific step under section 5, it must relate to step (i) as that is the only step requiring the cessation of the alleged mixed-use. Section 6 (ii) states 'Six months after this notice takes effect to undertake the works as set out in steps ii to ix inclusive.' It is clear this only relates to steps ii to ix. The notice fails to specify a period of compliance for requirement x and therefore misses a vital element that a notice shall include as set out in s173. Accordingly, the notice is defective on its face.
7. Whether or not a defect renders the notice a nullity must be viewed in context and, in particular, the importance or otherwise of that part of the notice which contains it, and whether or not it is "*inextricably bound up with the remainder of the relevant section of the notice or not and whether in its absence, the enforcement notice would otherwise be valid*"<sup>2</sup>. Step x states 'Reinstate the land to its former condition prior to the unauthorised works commencing.' The Council confirm this is a standard requirement they include on enforcement notices and was done so in error with this notice. The requirements of step x are effectively achieved through the requirements of steps i-ix. Accordingly, step x could be deleted without effecting the remaining requirements. Therefore, whilst the lack of a period of compliance for step x represents a defect in the notice, the notice can be corrected by the requirement being deleted entirely. Subject to this correction, it would not result in the defect rendering the notice null. I shall correct the notice accordingly.
8. Step ix of the notice states 'Dispose of any waste generated by the works to comply with all or any of the steps required by this notice to a site suitable to receive these items.' To remedy the alleged breach of planning control, it is irrelevant where the waste is disposed of once it is taken off the appeal site. Therefore, this part of the requirement is not necessary to remedy the breach of planning control. I shall correct it accordingly.
9. The appellant argues the requirements of the notice do not prevent the appellant modifying the mixed-use alleged in the notice by swapping the uses in each unit. However, step i requires the cessation of the mixed-use across the entire appeal site, thus preventing any of the units being used for any of the components of the mixed-use, regardless of which units they take place in. Accordingly, there is no error in the notice in this regard.
10. The appellant also argues the notice does not explicitly state what the lawful use of the site is. However, there is no requirement that an enforcement notice must identify what the lawful use of land or buildings is or what lawful use they must be returned to. Accordingly, there is no error in the notice in this regard.

## **Appeal B – The ground (b) appeal**

11. In appealing on ground (b) the burden of proof is firmly on the appellant to demonstrate that the alleged breach of planning control has not occurred as a matter of fact.
12. Regulation 4(c) of the Town and Country Planning (Enforcement Notices and Appeals) (England) regulations 2002 states an enforcement notice shall specify the precise boundaries of the land to which the notice relates, whether by reference to a plan or otherwise. There is no requirement that the red line on a

<sup>2</sup> *Oates v SSCLG* [2017] EWHC 2716 (Admin)

plan attached to the notice must relate to a planning unit or encompass the entire planning unit to which the site forms part of.

13. The ground (b) appeal is made on the basis that there are multiple uses taking place on the site, each with separate planning units, rather than a single mixed-use taking place on a single planning unit, as alleged by the Council.
14. *Burdle*<sup>3</sup> established that the planning unit is the unit of occupation unless a smaller area can be identified which, as a matter of fact and degree, is physically separate and distinct, and occupied for different and unrelated purposes. Bridge J suggested three broad categories of distinction: 1) a single planning unit where the unit of occupation is used for one main purpose and any secondary activities are incidental or ancillary; 2) a single planning unit that is in a mixed-use because the land is put to two or more activities and it is not possible to say that one is incidental to another; and 3) the unit of occupation comprises two or more physically separate areas that are occupied for different and unrelated purposes. In such a case, each area used for a different main purpose, together with its incidental activities, ought to be considered as a separate planning unit.
15. The appeal site comprises two large, metal-clad sheds; a large yard between the sheds; and, a timber cabin. One of the large sheds (Unit 2) has been extended to create an additional unit (Unit 1). The other shed has been subdivided internally to create Unit 3; a garage; and, a squash court with changing rooms and a seating/bar area. The garage and squash court are known as Unit 4. The timber cabin is located to the north west of Unit 4. Access to Units 1, 2, 3 and the squash court is via the central yard area. The garage is only accessed via the driveway serving The Barn. There is no direct access from the squash court to the garage.

#### *Units 1, 2, 3, 4 and 5*

16. The appellant owns the entire appeal site. Units 1, 2 and 3 have been leased out to other businesses at various times. Although the appellant confirms that a formal tenancy agreement was entered into with NSO Oils and Stadco, there is no evidence of such agreements before me. I note the 2021 'Licence to occupy on short term basis' document between the appellant and Mr Collins. However, this document is not signed and ended on 15 December 2022 (section 4.1.1 of the document). Mr Davies confirmed Stadco entered into a formal agreement with the appellant around 2016. However, there is no evidence of this before me. I also note that Mr Roberts confirmed he never entered into such an agreement. As a consequence, there is very limited evidence that these tenants had any legal occupation of the units they were occupying.
17. In terms of the use of the site, although the units are all physically separated internally, there is a functional link between them through the central yard area. The yard is an open space with no parking demarcated. Photographic evidence indicates the land has been used for the storage of items, notably pallets and bins outside Unit 1. In addition, the yard is used for the parking of vehicles associated with the various businesses operating from the site. There is no specific area for parking or loading/unloading, with such activities taking place all over the yard, regardless of which unit such activities are being carried out in association with. Moreover, commercial vehicles are often stored on the yard, which are not associated with any of businesses operating from the units.

<sup>3</sup> *Burdle & Williams v SSE & New Forest RDC* [1972] 1 WLR 1207

18. I note that small industrial estates, whereby each unit is a separate planning unit, may have central parking areas that each business has access to and use of. However, they would typically have demarcated parking spaces, possibly designated to specific units. The central yard area on the appeal site is more of an informal space that cannot clearly be associated with any of the units. I note the argument that the yard could be a separate planning unit in itself. However, it clearly has a functional link with each of the units by providing access to them and being used as an area of parking/storage for them.
19. In addition, there is a functional and occupational link between parts of the site and the units. The appellant occupies Unit 4 as well as occasionally using the yard for the storage of commercial vehicles and occupying units when they are vacant. Furthermore, Mr Roberts has in the past used Unit 1 and 3 at the same time. Units 2 and 3 have both been in use by two businesses at the same time (Unit 2 by Stadco and Stagecraft and Unit 3 by Stadco and Mr Roberts). However, this joint occupation was contained within the individual units and therefore does not support a functional and occupational link across the site.
20. The clearest functional link is that between the tourist accommodation log cabin (Unit 5), the yard, and the squash court and its associated facilities in Unit 4. Visitors to the log cabin would park on the yard and access it by having to go through Unit 4 and exit its back door. Unit 5 contains no bathroom facilities. Visitors would use the toilets and showers in Unit 4.
21. During the Inquiry, the appellant raised the question as to whether the use of the log cabin as tourist accommodation even amounted to a material change of use. This is on the basis of the number of times it had been used as tourist accommodation. The appellant confirmed that it had been used as tourist accommodation approximately 35 times since about 2021. However, there is no evidence before me of any details of bookings or how many days each booking was for. Accordingly, based on the evidence before me, I find that the use of the log cabin for tourist accommodation amounted to a material change of use. Given the functional link the log cabin has to Unit 4 and the central yard area, it forms part of the single mixed-use of the appeal site.

#### *The garage*

22. There is no dispute the garage is used by the appellant and his family for domestic activities associated with The Barn. Although it forms part of the same building that also comprises the squash court and Unit 3, the garage is not accessible from them and is not materially used in association with the uses taking place within them. Furthermore, it is not accessible from any other part of the appeal site and is not materially used in association with any of the other uses taking place on the appeal site.
23. Consequently, due to its residential use in association with The Barn and its lack of association with any of the uses taking place within the appeal site, the garage does not form part of any mixed-use taking place within the appeal site, but instead forms part of the separate residential use of The Barn and its planning unit. Therefore, I shall correct the notice to omit the garage from the alleged breach of planning control as part of the mixed-use and include it as a separate breach. I find no injustice would be caused to the appellant in doing this as they have made

the case the garage is lawful under the ground (d) appeal and for its retention under the ground (a) appeal and the deemed planning application.

*Conclusion on the ground (b) appeal*

24. I acknowledge the argument there are multiple primary uses with their own individual planning units and the appellant's attempt to define these planning units on a plan. However, as a result of the functional and occupational links that I have identified above between the different units and, most crucially, between the units and the central yard area, it is not possible to identify physically separate and distinct units. The only exception to this is the garage that forms part of Unit 4.
25. As a consequence, with the exception of the garage, I conclude from the evidence before me and on the balance of probabilities that the alleged breach of planning control comprising the material change of use to a mixed-use development comprising storage, contractors compound, tourist accommodation, squash court and other leisure/tourism facilities and agriculture has occurred.
26. The ground (b) appeal therefore fails.

**Appeal B – The ground (c) appeal**

27. The appeal on ground (c) is whether, on the balance of probabilities, the matters alleged in the notice do not constitute a breach of planning control. The burden of proof is upon the appellant.
28. The ground (c) appeal is made on the basis that the log cabin is used as ancillary accommodation to the main dwelling by the appellant's son. However, the appellant also confirms that the log cabin has also been used as tourist accommodation and has been rented out on approximately 35 occasions and concedes that planning permission would be required for such a use. Although it was argued that it may not have been used for tourist accommodation for more than 28 days per year and therefore may not have needed planning permission, there was no evidence presented to support this contention.
29. Based on the evidence presented to me, on the balance of probabilities, the use of log cabin as tourist accommodation was a material change of use that requires planning permission. As planning permission has not been granted for the use of the log cabin for tourist accommodation, it represents a breach of planning control.
30. The ground (c) appeal fails.

**Appeal A and Appeal B – The LDC appeal and the ground (d) appeal**

31. The onus is on the appellant to demonstrate that at the time the notice was issued it was too late to take enforcement action against the alleged breach of planning control. The relevant test of the evidence is 'on the balance of probability' (ie that it is more probable than not). If the Council has no evidence of its own, or from others, to contradict or otherwise make the appellant's version of events less than probable, there is no good reason to dismiss the appeal, provided their evidence alone is sufficiently precise and unambiguous. The relevant period of immunity from enforcement action in respect of Appeal A is 10 years prior to the date of the LDC application and in respect of Appeal B it is 10 years prior to the date of the notice being issued. The ground (d) appeal for Appeal B relates to the whole of the appeal site, whereas Appeal A relates to Unit 2 only.

32. As I have found above, there is a single mixed-use of the site comprising storage, contractor's compound, tourist accommodation, squash court and other leisure/tourism facilities and agriculture. The appeal site has evolved over the years with different components of the mixed-use being introduced at different times. Each time a new component is introduced and involves a material change of use, a new mixed-use will have commenced and therefore the clock restarts in respect of the period of immunity as it would be a different use<sup>4</sup>. The crux of the matter is whether there has been a single mixed-use taking place on the appeal site for a period of 10 years, without the mixed-use materially changing to another mixed-use.
33. The appellant bought the appeal site in 2001. Its use at the time was agricultural. Unit 2 was granted planning permission in 2008<sup>5</sup>. This application was made retrospectively. The description of the development was 'Storage shed' and the use as 'Farm Storage'. As the application was made retrospectively, regardless of the appellant's arguments, it seems to me that it must have been in agricultural use at the time the application was made. For the same reason, it cannot be argued that the application was not implemented. Upon its completion, on the basis that the building was granted planning permission for an agricultural use, the use of the site in 2008 remained agricultural.
34. In 2009, Mr Roberts and Stadco both occupied unit 3 for storage purposes. This created a mixed-use of the site comprising agriculture and storage. The Council argue that when Mr Roberts commenced operating his scaffolding business from Unit 3 in 2011, its use materially changed from storage to a contractor's compound.
35. Mr Roberts confirmed that he used Unit 3 to store scaffolding and vehicles associated with his scaffolding business. He would visit the site to collect scaffolding to take and erect on site and then return it to the unit when it was no longer needed on site. There is no evidence of the unit being used for any office purposes associated with the scaffolding business. Furthermore, although Mr Roberts stated vehicles may have occasionally been maintained on site, this typically involved washing them, rather than mechanical maintenance. On this basis, I find that Mr Roberts' use of Unit 3 was for storage use only and not a contractor's yard. I shall amend the notice accordingly to omit 'contractors yard' from the allegation. Therefore, in 2011, the mixed-use of the site remained composed of agriculture and storage.
36. In 2012, the appellant constructed the squash court. Ms Eryl Thomas confirmed that she was invited to use the court by the appellant in December 2012. She remembered this as Oswestry Leisure Centre had closed in 2011 and the squash court she had since been using in Llanfyllin Leisure Centre was closed over the Christmas period. Similarly, Mr Davies recalls the squash court being constructed around this time as he remembers being on holiday in Florida that year, looking forward to using the court when it was completed.
37. I note the Council's argument that evidence suggests the court was completed in 2014 as that is when the appellant sought to have the business rates on the building changed, which effectively halved his business rates. However, given the

<sup>4</sup> *Beach v Secretary of State for the Environment, Transport and the Regions* [2001] EWHC Admin 381

<sup>5</sup> Council reference: 08/15595/FUL

evidence from Ms Thomas and Mr Davies, I accept the appellant's contention that this was merely an oversight on his behalf.

38. On the balance of probabilities, the squash court was completed in 2012. However, there is a question as to whether its use materially changed from personal, private use to a leisure facility.
39. Upon its completion in 2012, the court was initially used by the appellant and family and friends. However, the appellant introduced an online booking system in around 2015 because it became too much taking bookings over the phone, usually via text.
40. The fact an online booking system had to be introduced suggests the squash court had transitioned from more than simply being in personal use for friends and family. Indeed, the appellant and Mr Davies confirmed users of the court are often friends of friends, people introduced to them by users of the court. Moreover, although a membership fee is not paid, albeit an attempt was made to introduce one in 2017, users of the court are described as 'members', with there being 12-14 members playing on a regular basis, a further 30 that play less regularly and approximately 100 other names on the system that are dormant accounts. In addition, it is referred to as a club and even has a name - Seven2 Sports. Furthermore, members have to pay £1 for the use of electricity and also pay for refreshments from the bar area. All of this goes beyond what would typically be described as personal, private use.
41. As a consequence, whilst the squash court may well have been in personal, private use upon its completion in 2012, the significant increase in the number of users; the introduction of the online booking system; the charging of users for electricity and refreshments; and, its operation as a club with a name resulted in a material change of use to that which is more akin to a sports club leisure use. This material change of use likely occurred around 2015 when it was necessary to introduce the online booking system.
42. The fact the online booking system is not open to the public is not a determinative factor. This is no different to a commercial gym offering fitness classes that can only be booked online if one is a member. Whilst the club is not run for commercial reasons, ie. the appellant does not seek to make money from it, that does not preclude it from being a leisure use.
43. Based on the evidence before me, the completion of the squash court in 2012 and its personal, private use introduced a new component to the existing mixed-use of the site, creating a new mixed-use comprising agricultural, storage and residential. The residential component is on the basis that the squash court was used incidental to the dwelling, The Barn. There was then a further material change of use of the appeal site in 2015 when the use of the squash court transitioned to a leisure use. Thus, the clock restarted once more as a new mixed-use was created, comprising agricultural, storage and leisure.
44. There is some dispute as to when Unit 1 was constructed. The appellant contends it was constructed in 2016. However, a photograph dated 22 March 2017 clearly shows the extension is not complete, as it does not appear to have its metal clad exterior at that time. A planning application was submitted for Unit 1 on 26 January 2017. Although the application was subsequently withdrawn/not validated, the description of the proposal on the application form is 'Erection of an

extension to an existing agricultural building’ and the question ‘Has the building...already started?’ was answered with ‘No’. Moreover, the existing use is described as ‘Agricultural storage yard’.

45. Based on the evidence before me, Unit 1 was completed at some point in 2017. The appellant argues that Mr Roberts was the first to use Unit 1 immediately after it was constructed. However, Mr Roberts confirmed he did not occupy Unit 1 until 2019. Therefore, there is little evidence to suggest the building was used for storage between its completion in 2017 and its first occupation by Mr Roberts in 2019. However, this is an academic point as I have found that Unit 1 forms part of the mixed-use taking place on the site. What remains to be considered with regard to Unit 1 is whether the building itself is operational development immune from enforcement action.
46. It was held in *Murfitt*<sup>6</sup> that where an enforcement notice is issued in respect of a material change of use, and works were carried out to facilitate the material change of use, the enforcement notice may require that the ‘ancillary’ or ‘incidental’ works are removed in order that the site is restored to its previous condition and the breach is remedied. The Court of Appeal’s judgment in *Caldwell*<sup>7</sup> clarifies the approach to be taken where the Council seeks to take action against a material change of use and, through the requirements, seeks to remove operational development that it alleges to have facilitated the unauthorised use. It was held that the *Murfitt*<sup>8</sup> principle did not apply in circumstances where the operational development is itself the source of or fundamental to the relevant change of use. In particular, the principle does not extend to works that are more than merely ancillary or secondary and are instead fundamental to or causative of the change of use itself. Operational development carried out “in its own right”, or “fundamental to or causative of” the change of use is not “ancillary” to, “secondary” to, “associated with” or “facilitative only of” that change of use, so falls outside the principle in *Murfitt*.
47. As I have found above, the storage component of the mixed-use of the appeal site was introduced prior to the erection of Unit 1 in 2017. Therefore, it cannot be said that the erection of Unit 1 was causative of a material change of use of the site. Unit 1 was used for storage, which already formed a component of the mixed-use of the site. Therefore, it merely facilitated the existing storage component. Consequently, in accordance with the judgments of *Murfitt* and *Caldwell*, the notice can require the removal of Unit 1.
48. The appellant confirmed under oath that the tourist accommodation began operating in approximately 2021. It is argued that, due to its scale and the infrequency of its use, the tourist accommodation would not result in a material change of use of the mixed-use of the site. Whilst the footprint of the log cabin is only a minor part of the planning unit, the use extends beyond the log cabin. Guests would park in the central yard. They would then access Unit 4 and walk through it to gain access to the log cabin. As the log cabin contains no toilet or bathroom, guests would have to use those facilities in Unit 4. Moreover, as seen in the online details of the accommodation, the response to an enquiry asking ‘What is shared in all this?’ the answer given is ‘The bar and toilets with the squash club’. Furthermore, photographs on the same webpage include the bar

<sup>6</sup> *Murfitt v SSE* [1980] JPL 598

<sup>7</sup> *Caldwell & Timberstore Ltd v SSLUHC & Buckinghamshire Council* [2024] EWCA Civ 467

<sup>8</sup> *Murfitt v SSE* [1980] JPL 598, *Somak Travel v SSE* [1987] JPL 630

area and squash court. This indicates that the bar area and squash court in Unit 4 are also available for use by the guests. Therefore, the tourist use is not contained solely within the log cabin.

49. I note the appellant's statement that the log cabin was only rented out on approximately 35 occasions. However, due to the lack of evidence as to how many days this covered over the period it was in such use, it has not been sufficiently demonstrated that the frequency of its use was insignificant compared to the other components making up the mixed-use.
50. Overall, the tourist accommodation extending beyond the confines of the log cabin, notably throughout Unit 4 and the central yard area, and the frequency of its use was significant enough for a material change of use of the planning unit to occur in 2021 to a mixed-use comprising agricultural, storage, leisure and tourist accommodation. As the introduction of the tourist accommodation created a new mixed-use of the appeal site, the clock restarted. Accordingly, it is evidently clear that the mixed-use has not been taking place for a period of 10 years prior to the notice being issued or the LDC application being made.

#### *The garage*

51. As I have found the garage contained in Unit 4 does not fall within the same planning unit as the single mixed-use taking place across the remainder of the appeal site, I shall now consider whether the garage is lawful.
52. The appellant argues the garage was constructed in 2001. In support of this is a letter from 'Graysam Construction' indicating that work on the construction of the garage was started in 2000 and finished in 2001. The details of the letter are limited, and its author was not made available as a witness during the inquiry. This reduces the weight I can attribute to it. However, the garage sits beneath the bar area of the squash court. Given the internal layout of Unit 4, it would be impractical to construct the squash court in its current position, effectively in the middle of Unit 4, leaving a vacant space to the rear (where the garage is). Therefore, the garage was most likely constructed before or, at the very latest, at the same time as the squash court in 2012. Therefore, based on the evidence before me, on the balance of probabilities, the garage was completed at least 10 years prior to the issuing of the notice.

#### *Conclusion on the LDC appeal and the ground (d) appeal*

53. I find therefore, the ground (d) appeal succeeds insofar as it relates to the garage contained within Unit 4. However, in respect of the remaining ground (d) appeal, it has not been demonstrated that the mixed-use taking place on the site, or any previous mixed-use I have identified, has been taking place for a period of 10 years or more prior to the issuing of the notice. The ground (d) appeal in respect of the mixed-use as alleged therefore fails. For the same reasons, as Unit 2 falls within the same planning unit and single mixed-use, the LDC appeal also fails.

### **Appeal B - The ground (a) appeal**

#### *Preliminary matter*

54. The appellant confirms they do not seek planning permission for the use of the log cabin for tourist accommodation. Also, as a result of my finding on the ground (d)

appeal, the garage is lawful due to it no longer being immune from enforcement action.

55. Accordingly, the ground (a) appeal proceeds on the basis that planning permission is sought for a mixed-use development comprising storage, squash court and other leisure/tourism facilities, agricultural and associated operational development.

### *Main issues*

56. The main issues are as follows:

- Whether the location of the development is suitable, having regard to the Council's growth strategy;
- The effect of the development on the living conditions of the occupants of neighbouring residential properties, with regard to noise and disturbance and odour; and
- The effect of the development on highway safety.

### *Location*

57. Policy MD1 of the Shropshire Council Site Allocations and Management of Development Plan (SAMDev) 2015 sets out the settlement hierarchy for Shropshire. Policy CS3 of the Shropshire Council Adopted Core Strategy (CS) 2011 states that the Market Towns and other Key Centres will maintain and enhance their roles in providing facilities and services to their rural hinterlands and that balanced housing and employment will take place within the towns' development boundaries
58. The appeal site is located in the hamlet of Woolston, outside any of the named settlements in Policy MD1 and CS3. For the purposes of the development plan, Woolston is located within the countryside.
59. Policy CS5 of the CS allows new development in the open countryside only where it maintains and enhances countryside vitality and character and improves the sustainability of rural communities. The policy provides a list of particular development that it relates to including small-scale new economic development diversifying the rural economy, including farm diversification schemes. There is no dispute the development is not a farm diversion scheme. Nevertheless, farm diversification schemes are only given as an example. Other small-scale new economic development diversifying the rural economy are also acceptable.
60. The indent below the second bullet to Policy CS5 states that for such development applicants will be required to demonstrate the need and benefit for the development proposed. It goes on to state that development will be expected to take place primarily in recognisable settlements or be linked to other existing development and business activity where this is appropriate. Given the first bullet of CS5 relates to development diversifying the rural economy, the needs and benefits must be considered in the context of the rural economy. This does not extend to the needs and benefits of the town of Oswestry as that is clearly not part of the rural economy. If it did, then that would entirely undermine the purpose of CS5.

61. In terms of need for the storage use, there is no evidence before me of what the current provision of storage units in the locality is. Moreover, Unit 2 is currently vacant and Unit 3 is largely underutilised. Which suggests the need is not so great; if it was, then surely they would be occupied/utilised more. Nevertheless, I accept the issuing of the notice that is the subject of this appeal would dissuade a new occupier until the matter is resolved. Accordingly, I attribute the vacancy of Unit 2 and the largely underused Unit 3 limited weight.
62. Notwithstanding the above, the town of Oswestry is only a short journey away from the appeal site. There is no evidence to indicate why any need in the locality of Woolston and its immediate surroundings could not be accommodated in Oswestry. Even taking into consideration the only storage business currently operating from the site, NSO Oils, it would be highly unlikely that the needs of the business require it to be located on the appeal site. Given its proximity to Oswestry, it is reasonable to conclude that any locational need the business does have could equally be met in Oswestry.
63. In terms of the benefits of the storage use, these are not restricted to solely jobs. They can include the payment of business rates; provision of storage facilities to meet market demand; and, enabling businesses to expand. Taking these into consideration, given the nature of businesses that occupy storage units, the number of people they employ would be limited. Moreover, with the exception of the appellant, who lives adjacent to the site, there is no evidence of any of the businesses employing anyone from Woolston or the surrounding locality. Therefore, there is little evidence of job creation benefitting the rural economy. Whilst employees may live in Oswestry, Oswestry is a town and therefore does not form part of the rural economy which the development must be considered against under Policy CS5.
64. Business rates would be paid to the Council and whilst some of this would have a positive benefit to the rural economy through things such as road maintenance, the same benefits would be achieved if the businesses were located elsewhere in Shropshire.
65. The storage units allow smaller businesses to expand. Indeed, that has been seen on the site with Mr Roberts and Stadco moving between different units. However, prior to the occupation of the site, there is no evidence that Mr Roberts's business and Stadco were operating in the locality. They moved into the units from further afield. Furthermore, there is no evidence of businesses operating in the locality requiring a unit to expand into.
66. As I have identified above, there is very little evidence of the need for the storage units in this locality. Therefore, it cannot be said there is a need to meet market demand, particularly in this locality. Moreover, it is not possible to say the storage is cost-effective as there is no evidence before me of the cost of other storage units in the area to compare it against.
67. The National Planning Policy Framework (the Framework) promotes the provision of storage and distribution at a variety of scales. However, that is on the basis that it is in suitably accessible locations. Furthermore, paragraph 88 of the Framework supports a prosperous rural economy and sets out four areas of development that planning policies and decisions should enable. However, again this is not to be

read in isolation but in the context of the development being in a suitable location, as set out in the development plan.

68. Given the above, there is very little evidence of the need for the storage units in the locality. Moreover, the benefits it provides to the rural economy are very limited. Therefore, the needs and benefits of the storage development in this location have not been sufficiently demonstrated and therefore does not satisfy Policy CS5.
69. With regard to the leisure use, Policy CS5 permits sustainable rural tourism and leisure and recreation proposals which require a countryside location, in accordance with Policy CS16 and CS17. Put simply, a squash court does not require a countryside location. Squash is an indoor sport and does not require a large open space. It can quite comfortably be located within a relatively small building, as seen on the appeal site. Whilst one can of course find squash courts in a countryside location, that does not equate with them needing to be in a countryside location. Accordingly, the leisure use does not satisfy Policy CS5.
70. Policy CS16 of the CS supports schemes aimed at diversifying the rural economy for leisure uses that are appropriate in terms of their location, amongst other things. However, it must be read in conjunction with bullet 6 of Policy CS5, ie, development considered under bullet 6 of Policy CS16 must first be found to require a countryside location. As a squash court does not require a countryside location, it is therefore not supported by Policy CS16.
71. Similarly, although Policy CS13 of the CS supports the diversification of the rural economy; Policy MD4 of the SAMDev supports employment development; and Policy MD11 of the SAMDev supports leisure development, these are also subject to compliance with Policy CS5. As the proposal fails to satisfy Policy CS5, it must also fail to satisfy these policies.
72. I find therefore, the development is not located in a suitable location, having regard to the Council's growth strategy and therefore fails to comply with Policies CS3, CS5, CS13 and CS16 of the CS, as well as Policies MD1, MD4 and MD11 of the SAMDev. It would also fail to accord with the Framework's objective of supporting economic growth in suitable locations.

### *Living Conditions*

73. The appeal site is located within proximity of a cluster of several residential properties. There is no concern raised regarding the effect the leisure use has on the living conditions of neighbouring residents.
74. The storage units do not contain any heavy plant or machinery. They are generally large, open units used to store goods with little activity taking place inside them.
75. However, the storing of goods requires the process of loading and unloading them. This involves large lorries accessing and manoeuvring within the site, most likely with reversing warnings making a noise. Unloading/loading the goods from/onto the lorries could utilise a forklift truck, itself making warning noises when moving around the site. In addition, with regard to the scaffolding business, the loading/unloading of trucks would likely generate noise through the clattering of metal poles when dropped or moved about. The potential for such activity to be

taking place from 3 units (1, 2 and 3) at the same time would likely create a significant amount of noise.

76. Whilst the noise generated by these activities may not be significant in the context of an industrial estate in an urban setting, the appeal site is in a rural setting, where the noise would likely be more discernible against the peaceful backdrop. Such noise would likely have a significantly harmful effect on local residents, unduly disrupting their peacefulness.
77. It is argued the use of the site for agricultural purposes would generate some noise. However, that noise would not be akin to the noise generated by the storage uses taking place on the appeal site and certainly not to the same intensity. Moreover, in a rural setting noise generated by a tractor or animals is less likely to be discernible than noise generated by a lorry or forklift truck.
78. I note the scaffold business no longer operates from the site. However, that is not to say it would not restart or that a similar business would not move on to the site.
79. Noise generated at night could be sufficiently mitigated through appropriately worded conditions limiting the hours of operation. However, that would not mitigate unacceptable noise generated during the daytime.
80. The Council also state the development generates unacceptable odour caused by the storage of oil. During my site visit I detected only a faint smell of odour when inside Unit 1, within proximity of the oil containers. However, outside the unit this was entirely unnoticeable. There is no substantive evidence that the odour would have any unacceptable effect on the living conditions of the occupants of neighbouring residential properties.
81. Although the Council's Environmental Health Officer has made no formal comment on the development and there is no record of them being consulted, that does not mean no harm exists. I have based my consideration on the evidence before me, which indicates there would be unacceptable noise that would be harmful to the living conditions of neighbouring residents.
82. I find therefore, the development has a significantly harmful effect on the living conditions of the occupants of the neighbouring residential properties, with regard to noise. As such, it fails to comply with Policy CS6 of the CS, which seeks to protect residential amenity.
83. The Council also rely on Policy CS17 and Policy MD2 of the SAMDev of the CS. However, neither of these has regard to living conditions of neighbouring residents and are therefore not relevant in the context of this main issue.

#### *Highway Safety*

84. The appeal site is accessed via single-lane, narrow, rural roads. Woolston Road is a narrow lane with very few opportunities for vehicles to pass each other. The entrance to the appeal site's yard area is wide, allowing good visibility in both directions. However, photographs of the yard indicate that at times it can be in heavy use by lorries loading/unloading at their respective units, preventing vehicles from accessing/egressing the site in a safe manner. In particular, if vehicles were loading/unloading outside units 1, 2 and 3 simultaneously, it would be very difficult for another vehicle, for example a large lorry, to safely turnaround within the site to exit in a forward gear. This could potentially result in vehicles

reversing onto the highway to exit or having to wait on the highway until other vehicles move. This could unduly prevent the free-flow of traffic along Woolston Road.

85. Added to this, members of the squash court also park on the yard, increasing the number of vehicles moving within the site and thus exacerbating the potential for conflict between site users.
86. I have considered the suitability of imposing conditions relating to the layout of the carpark, which could potentially address some of these concerns. However, in the absence of any detail of how many traffic movements the development could potentially generate or an indication of how the car park could be arranged, I am not satisfied that such conditions would be appropriate. There is no evidence before me that the yard could adequately accommodate the necessary parking provision and turning space to ensure there would be no unacceptable risk to highway safety.
87. I acknowledge the Local Highway Authority have not made any formal comment on the development. Nevertheless, I have been able to make my own assessment based on the evidence before me.
88. Furthermore, I note there are other commercial units within the locality that utilise large lorries. However, there is no evidence before me of the scale of these businesses and how many vehicle trips they generate compared to the appeal site. Accordingly, I attribute this very limited weight.
89. I find therefore, the development unacceptably harms highway safety, contrary to Policies CS6 and CS7 of the CS, which seek to promote highway safety.

#### *Planning Balance*

90. The appeal site has been occupied by various businesses over the years and therefore has provided some benefit to the local economy during this time. Moreover, the leisure use provides its users with an opportunity to exercise and improve their well-being. However, individually or cumulatively, these benefits do not outweigh the significant harm the development has by way of its unsuitable location; harm to the living conditions of the occupants of neighbouring residential properties; and, harm to highway safety.

#### *Conclusion on the Appeal B ground (a) appeal and the deemed planning application*

91. For the reasons given above, having regard to the development plan as a whole and all material considerations, planning permission should not be granted in response to the ground (a) appeal against the enforcement notice and deemed planning application. Therefore, the Appeal B ground (a) appeal and the deemed planning application fails.

#### **Appeal B - The ground (f) appeal**

92. This ground of appeal is that the steps required by the notice to be taken, or the activities required by the notice to cease, exceed what is necessary to remedy any breach of planning control which may be constituted by those matters or, as the case may be, to remedy any injury to amenity which has been caused by any such breach.

93. As I have found under the ground (d) appeal, Unit 1 facilitated the existing storage component of the single mixed-use. Consequently, in accordance with the judgments of *Murfitt* and *Caldwell*, the notice can require the removal of Unit 1. Therefore, the steps requiring the removal of Unit 1 do not exceed what is necessary to remedy the breach of planning control.
94. Similarly, an enforcement notice that is directed at a material change of use may require the removal of works integral to and solely for the purpose of facilitating the unauthorised use, even if such works on their own might not constitute development, or they would be permitted development or immune from enforcement, so that the land is restored to its condition before the change of use took place<sup>9</sup>. The mezzanine floor, internal walls etc that are required to be removed under requirement iv of the notice are all part and parcel of/facilitate the leisure use. Accordingly, their removal does not exceed what is necessary to remedy the breach of planning control. For the same reasons, the removal of vehicles and equipment from the land also does not exceed what is necessary to remedy the breach of planning control.
95. The notice does not seek the removal of the log cabin, only for its use as tourist accommodation to cease. The removal of the facilities in Unit 4, eg showers and toilets, would prevent the use of the log cabin as tourist accommodation as it contains no such facilities. Therefore, the removal of the bed, furniture, fridge and cooking equipment would not be necessary. Accordingly, I shall omit requirement vi.
96. I find therefore, the ground (f) appeal succeeds insofar as it relates to the contents of the log cabin. However, it fails in respect of the remaining matters.

## **Appeal B - The ground (g) appeal**

97. This ground of appeal is that the period for compliance is unreasonably short.
98. Unit 2 is currently vacant and Unit 3 has very little stored in it. Furthermore, the appellant confirms Unit 4 could be cleared within 6 months. Therefore, it is likely that the requirements of the notice in respect of these units could be complied with within the periods of compliance set out in the notice.
99. Although the appellant contends there is a formal lease with the occupants of Unit 1, no such evidence is before me. Therefore, I cannot be certain how long is left on the lease, or how much notice the tenant needs to vacate the premises. Similarly, there is no evidence from the tenant as to how much time they would need to comply with the requirements of the notice. As the burden of proof is upon the appellant, it has not been sufficiently demonstrated that the requirements of the notice in respect of Unit 1 could not be complied with within the periods of compliance.
100. I find therefore, the ground (g) appeal fails.

## **Formal Decision**

### *Appeal A*

101. The appeal is dismissed.

<sup>9</sup> *Murfitt v SSE* [1980] JPL 598 and *Somak Travel v SSE* [1987] JPL 630

*Appeal B*

102. It is directed that the enforcement notice is varied and corrected by the following:

- The deletion of section 3 of the notice and substitute the following:  
“Without planning permission:  
  
i Material change of use to a mixed-use development comprising storage, tourist accommodation, squash court and other leisure/tourism facilities and agricultural, and associated operational development; and,  
  
ii Material change of use to a residential garage.”
- The deletion of requirement i under section 5 and substitute the following:  
“To cease the use of the land for mixed-use namely, storage, tourist accommodation, squash court and other leisure/tourism facilities and agricultural.”
- The deletion of requirements v, vi and x under section 5.
- The deletion of the words “to a site suitable to receive these items.” from requirement ix under section 5.
- The deletion of the plan attached to the notice and substitute it with the plan contained in Appendix A attached to this decision.

103. Subject to the corrections, the appeal is dismissed, the enforcement notice is upheld and planning permission is refused on the application deemed to have been made under section 177(5) of the 1990 Act as amended.

*A Walker*

INSPECTOR

## **APPEARANCES**

### **FOR THE APPELLANT:**

Sioned Davies, counsel for the appellant.

They called:

David Cadwallader, the appellant

Neil Davies, Plant Manager for Marrill Limited

Lee Roberts, tenant

Richard Corbett, Roger Parry & Partners LLP

### **FOR THE LOCAL PLANNING AUTHORITY:**

Piers Riley-Smith, counsel for the Council.

They called:

Emma Green, Interim Planning Manager, Shropshire Council

Sara Robinson, Planning Officer, Shropshire Council

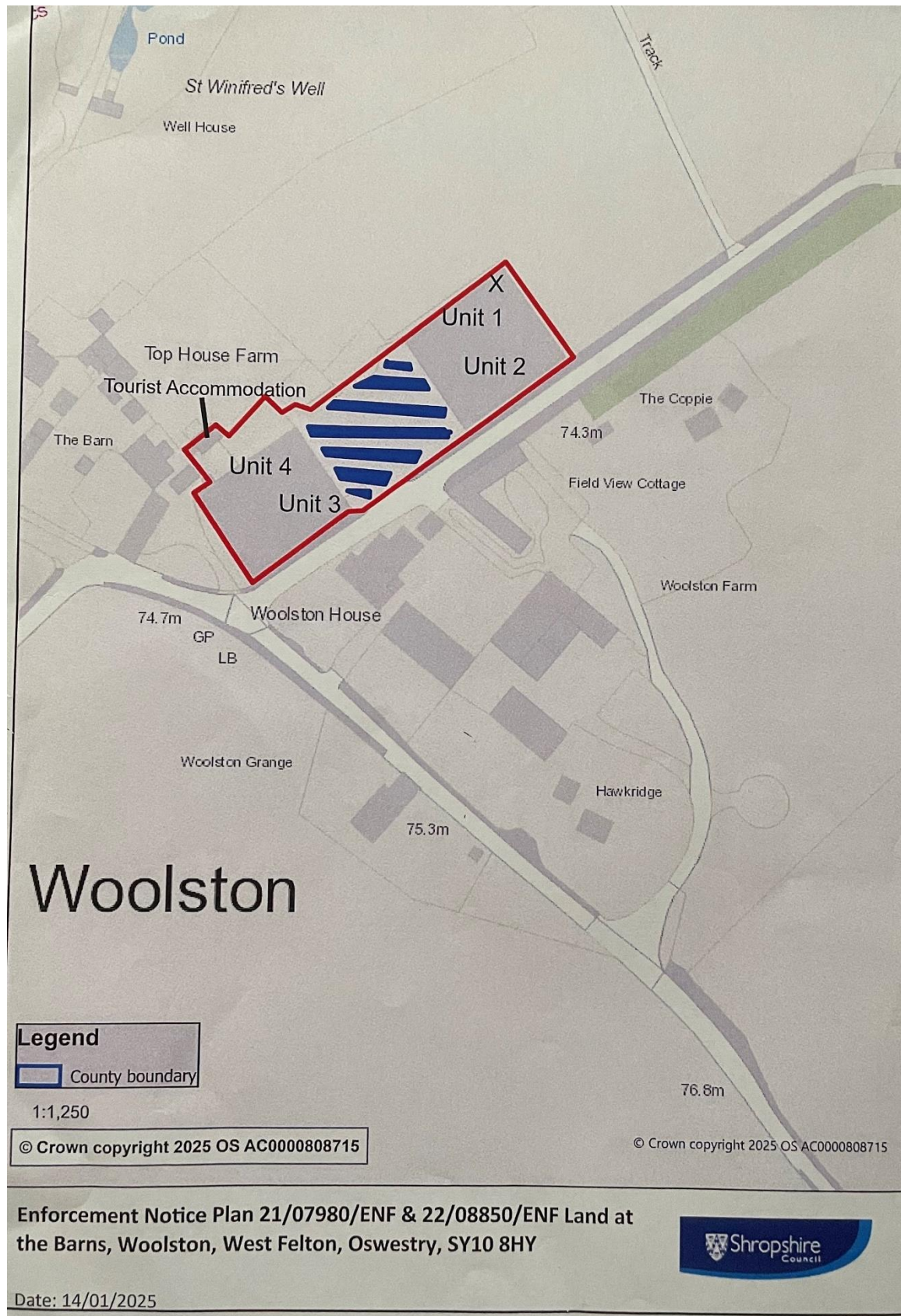
### **INTERESTED PARTIES:**

Linda Jordan, neighbouring resident

**INQUIRY DOCUMENTS:**

1. Marrill (Powys) Limited purchase orders, submitted by the appellant
2. Purchase order data information for POP43326, submitted by the appellant
3. Revised plan to accompany notice, including unit numbers and tourist accommodation, submitted by the Council
4. Proposed amended breaches reflecting potential separate planning units, submitted by the Council
5. Inspection Feedback Form of visit carried out by Mary Edge on 15 May 2015, submitted by the Council

## Appendix A – Substituted plan attached to the Enforcement Notice





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## Appeal Decision

Site visit made on 26 February 2025

**by D Hartley BA (Hons) MTP MBA MRTPI**

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

**Decision date: 27 FEBRUARY 2025**

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**Appeal Ref: APP/L3245/C/23/3333860**

**6 Tudor Close, Market Drayton, Shropshire, TF9 3QR**

- The appeal is made under section 174 of the Town and Country Planning Act 1990 (as amended). The appeal is made by Belford Homes Ltd against an enforcement notice issued by Shropshire Council.
  - The notice was issued on 25 October 2023.
  - The breach of planning control as alleged in the notice is without planning permission, operational development in the form of the erection of a brick wall adjacent to a highway at a height exceeding 1 metre in the location marked with an 'X' on the attached plan.
  - The requirements of the notice are to (i) demolish the wall and remove from the land all waste and materials to a site licensed to receive such material, returning the land to its former condition prior to the unauthorised works occurring, or (ii) reduce the wall to a maximum height of 1 metre, i.e., for complete clarity no part of the wall should exceed a height of 1 metre, including the pillars and remove from the land all waste and materials to a site licensed to receive such material.
  - The period for compliance with the requirements is 56 days.
  - The appeal is proceeding on the ground set out in section 174(2)(a) of the Town and Country Planning Act 1990 (as amended). Since an appeal has been brought on ground (a), an application for planning permission is deemed to have been made under section 177(5) of the Act.
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### Decision

1. The appeal is allowed, the enforcement notice is quashed, and planning permission is granted on the application deemed to have been made under section 177(5) of the 1990 Act (as amended) for the development already carried out, namely operational development in the form of the erection of a brick wall adjacent to a highway at a height exceeding 1 metre, at 6 Tudor Close, Market Drayton, Shropshire, TF9 3QR as shown on the plan attached to the notice.

### Preliminary Matters

2. The National Planning Policy Framework was revised in December 2024 (the 2024 Framework) and was subsequently amended on 7 February 2025 to correct cross-references from footnotes 7 and 8 and amend the end of the first sentence of paragraph 155 to make its intent clear. The 2024 Framework replaces the previous version of the National Planning Policy Framework published in December 2023. The 2024 Framework has not materially changed in terms of the consideration of the ground (a) appeal main issue below. Therefore, it has not therefore been necessary for me to seek comments from the main parties about the implications of the 2024 Framework.

3. The evidence indicates that there has been a dispute between the appellant and the occupier of No. 6 Tudor Close in terms of whether part of the wall has been built on land without the necessary permission from a landownership point of view. The evidence from the appellant is that the landownership issue has now been resolved. I cannot be certain from the evidence if this matter has been resolved, but, in any event, this is a private/legal matter between the parties. In other words, it is a matter to be considered separately from the planning merits of the deemed planning application. It is also noteworthy that the occupier of No. 6 Tudor Close has, in any event, made representations in respect of this appeal.

### **Main Issue**

4. The appeal is made under ground (a) which is that planning permission ought to be granted in respect of the breach of planning control alleged in the notice. The main issue is the effect of the unauthorised development on highway safety.

### **Reasons**

5. The unauthorised development relates to the erection of a brick wall (with pillars) adjacent to a highway used by vehicular traffic. It is positioned in front of an extended driveway and garden land associated with No. 6 Tudor Close which is a detached brick built dwellinghouse on a housing estate. It is also positioned next to a children's play area although it does not in itself enclose this land. The children's play area is enclosed with railings and a wooden fence.
6. Tudor Close, which is a cul-de-sac, has been developed in two stages with the first stage comprising four dwellinghouses and then the second stage comprising twenty-one residential units. The brick wall, which includes the name of the road (i.e. Tudor Close), has a similar appearance to the wall opposite it and which is closely aligned with No. 3 Tudor Close. It is understood that these walls are positioned in a location which marks the transition between the two phases of development.
7. No. 6 Tudor Close has effectively two drives albeit that they are not separated from each other by any physical barrier. One drive is in front of the main entrance to the dwellinghouse and the other angles towards an attached double garage. The appeal wall, which includes a pillar near to one of the driveways, is nonetheless set slightly back from this access and instead there is a grassed area.
8. While my site visit was only a snapshot in time, I noticed that traffic speeds were very low. Moreover, motorists are alerted to the requirement to travel no more than 10 mph owing to annotations on the surface of the highway just before the appeal wall which state '10' and 'slow'. I also noticed on my site visit that there was a sign on the wall opposite the appeal site which included a 10 mph speed limit. In addition, the wall is not far from the junction with Hampton Drive and there is a change in the surface material of the road just before the appeal wall. In my judgement, these highway characteristics alert motorists of the need to drive slowly and to adhere to no more than 10 mph.
9. The appellant has provided me with a copy of the drawing which accompanied an application to discharge condition No. 10 of planning permission

19/01040/FUL. This shows the location of the proposed wall, but no details of its height or appearance. There is no evidence before me to indicate that the full details of the wall have already been approved by the Council and it is noteworthy that the appellant has submitted a regularising planning application and a non-material amendment planning application to the Council which have been refused<sup>1</sup>. That said, it is clear that at least in land use principle terms, there has been an intention to erect a wall on the appeal land for some time and the Council has been aware of this in terms of its consideration of other planning applications.

10. As part of my site visit, I was able to see that the driveways associated with No 6 Tudor Close angle forward of the wall and further into Tudor Close. In the context of what I noticed were low traffic speeds in Tudor Close, coupled with the '10' roundel and 'slow' marking on the road and the sign on the opposite wall, as well as the angled orientation of the driveways relative to the position of the wall (as illustrated in appendix 5 of the appellant's statement of case), I am satisfied that the development has not had an unacceptable impact on highway safety.
11. I find that I have been able to reach a sound conclusion on this matter based on my own site visit observations, the site conditions, the 10 mph restrictions and slow marking in Tudor Close, the ramped highway entrance feature, and the proximity to Hampton Drive. Notwithstanding this position, I do accept that those leaving the driveways (particularly the one nearest the wall) must do so with more care when compared to driveways where there is no wall or vegetation. However, given my observations about low traffic speeds in Tudor Close, the angled orientation of the driveways with the wall, and highway conditions generally, I do not find that unacceptable conflict between vehicles would be likely.
12. Overall, I am satisfied, given the likely speed of vehicles moving along this part of Tudor Close, that those motorists passing by in both directions can suitably see vehicles leaving the driveways with enough time to stop should that be necessary. I find that the position of the appeal wall (including pillars) has maintained acceptable vehicular sightlines for those using the driveways at No. 6 Tudor Close and for those travelling along Tudor Close.
13. I do not find that the wall has had an unacceptable impact on pedestrian safety. Dropped kerbs are provided throughout the whole of the estate. Hence, pedestrians can choose to cross Tudor Close to reach other pavements where intervisibility is good.
14. For the collective reasons outlined above, I conclude that the unauthorised development does not have an unacceptable impact on the highway safety of any road user. Accordingly, it accords with the highway safety requirements of policy CS6 of the Shropshire Local Development Framework Core Strategy 2011, policy MD2 of the Shropshire Council Site Allocations and Management of Development Plan 2015, and chapter 9 of the 2024 Framework.

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<sup>1</sup> Planning application 21/01797/FUL refused on 15 April 2021 and non-material amendment planning application 23/01897/AMP refused on 6 June 2023

## **Other Matters**

15. While some concern has been raised by the occupier of No. 6 Tudor Close about the effect of the wall on the character and appearance of the area, it is noteworthy that this is not a concern raised by the Council. Moreover, a significant number of supportive comments have been received from members of the public including those that live in Tudor Close. In my judgement, the brick wall does not look out of place in the context of this housing estate and, in fact, provides a characterful 'entrance' feature, in conjunction with the wall opposite, for those travelling from one phase of the residential development to another. Moreover, given the position of the wall, I do not find that it has resulted in material harm being caused to the occupiers of No. 6 Tudor Close in terms of outlook or light.

## **Conditions**

16. The deemed planning application relates to retrospective development. As the brick wall is adjacent to a highway used by vehicular traffic, any further increase in height would require planning permission given the restrictions and limitations imposed in respect of Class A of Part 2 of Schedule 2 of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended). It is not necessary to impose any conditions.

## **Conclusion**

17. For the reasons given above, I conclude that the appeal succeeds on ground (a). I shall grant planning permission for the operational development as described in the notice. The enforcement notice will be quashed.

*D Hartley*

INSPECTOR