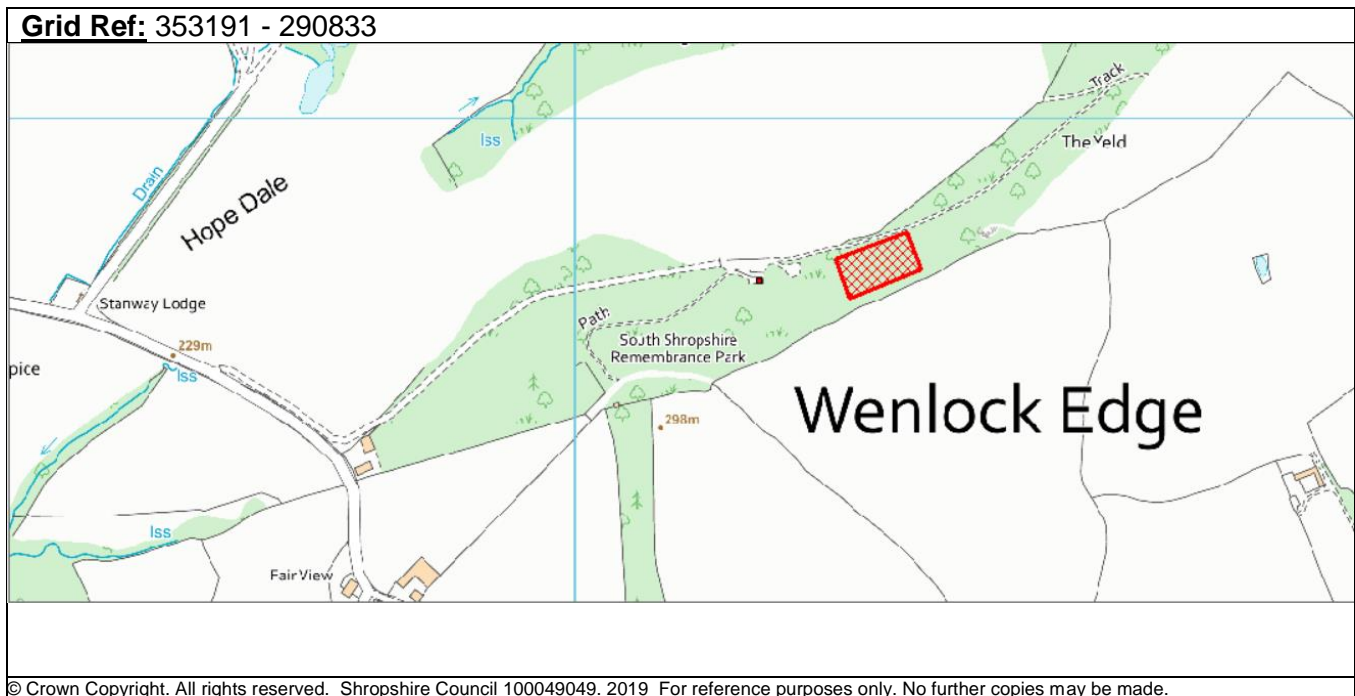


Development Management Report

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

Summary of Application

Application Number: 21/00768/COU	Parish: Rushbury
Proposal: Change of use of land to form extension to Remembrance Park	
Site Address: South Shropshire Remembrance Park Upper Stanway Rushbury Shropshire SY6 7EF	
Applicant: South Shropshire Remembrance Park	
Case Officer: Helen Tipton	email : helen.tipton@shropshire.gov.uk



Recommendation:- Refuse.

Recommended Reason for refusal:

1. The development would have a significant adverse impact on a locally designated biodiversity site, which is an important and irreplaceable woodland with confirmed priority habitat. The social or economic benefits of the proposal would not outweigh the environmental

harm arising from the scheme and, as such, the development would conflict with Core Strategy Policy CS17, the Site Allocations and Management of Development (SAMDev) Plan Policy MD12 and Paragraphs 175 and 180 of the National Planning Policy Framework, (NPPF 2021).

REPORT

1.0 THE PROPOSAL

- 1.1 The application seeks planning permission for the change of use of land to form an extension to an existing Remembrance Park.
- 1.2 The existing Remembrance Park is a green burial site which gained planning approval in 2003, (SS/1/03/14101/F refers), along with the erection of a facilities / reception building, parking and new access road.

2.0 SITE LOCATION/DESCRIPTION

- 2.1 The proposed development site is located in a clearing of woodland, to the east of South Shropshire Remembrance Park. The site is positioned on the northern slopes of Wenlock Edge escarpment, to the north east of Hope Dale and is within The Yeld Local Wildlife Site.

The woodland site is protected by a Tree Preservation Order, (TPO). It adjoins Pole Wood and Rickhouse Coppice, (the latter is semi-natural ancient woodland) and is grouped with other ancient woodland sites in the locality.

The Remembrance Park is approached from the unclassified Stanway road; a no through route leading south east from Rushbury village, along Roman Bank. The access route runs parallel with the adjoining road, before heading through the woodland.

3.0 REASON FOR COMMITTEE DETERMINATION OF APPLICATION

- 3.1 The scheme does not comply with the delegation to officers as set out in Part 8 of the Shropshire Council Constitution as the Parish Council have submitted a view contrary to officers. The Local Member has requested the matter be heard at committee and the Principal Planning Officer and Chair of the Southern Planning Committee have discussed how the application should be determined. It has been agreed that the scheme should be referred for consideration by the South Planning Regulatory Committee.

4.0 Community Representations

- 4.1 Consultee Comments
 - 4.1.1 Shropshire Wildlife Trust - no comment.
 - 4.1.2 Shropshire Hills AONB - comment.

The Shropshire Hills AONB Partnership is a non-statutory consultee and does not

have a role to study the detail of all planning applications affecting the AONB. With or without advice from the AONB Partnership, the planning authority has a legal duty to take into account the purposes of the AONB designation in making this decision and should take account of planning policies which protect the AONB and the statutory AONB Management Plan.

Our standard response here does not indicate either an objection or no objection to the current application. The AONB Partnership, in selected cases, may make a further detailed response and take a considered position.

4.1.3 Shropshire Council Drainage - no objection.

An informative comment is provided, giving advice to the consideration of sustainable surface water drainage systems.

4.1.4 Shropshire Council Highways - no objection.

The proposed extension to the Remembrance Park is unlikely to significantly impact on the surrounding highway network. Access and parking are existing and the proposal is considered acceptable from a highways perspective.

4.1.5 Shropshire Council Rights of Way - no comment.

4.1.6 Shropshire Council Trees - objection.

19 May 2021 - objection.

In the absence of an Ecological Impact Assessment, the Council's Tree team are unable to conclude that the proposed change of land use represents sustainable development.

The woodland is protected under The South Shropshire District Council (Stanway Manor & Estate Rushbury) Tree Preservation Order (TPO) 1978. It falls within the AONB and is recorded on the national habitat inventory as priority habitat (broadleaf woodland), is part of The Yeld Local Wildlife Site and subsequently is core habitat within the local Environmental Network. There are seven Ancient Woodland Sites within 1400 metres of the site, the closest approximately 650 metres away (Rickhouse Coppice) is Semi-Natural Ancient Woodland.

Contrary to the aspiration for environmental net gain from new development, as set out in the Governments 25 year plan on the environment and in the National Planning Policy Framework, (NPPF), this application would result in the erosion / fragmentation of priority habitat, removing it from its current land use type without offering any sustainable compensation.

As is shown in the Shropshire Council (SC) Trees Addendum, (document viewable on the public register), management of the existing areas creates an attractive graveyard / remembrance park but has resulted in the loss of natural tree and ground cover over large areas and an interruption of the natural development of woodland. It therefore constitutes a fragmentation and degradation of the TPO and priority habitat that is contrary to the aspirations to conserve and enhance the

natural environment.

Whilst the current extent of the graveyard is established and so must be tolerated, the applicant's case made no argument as to how extending the graveyard further can be considered as sustainable development, other than to suggest that the area intended to extend the park is either scrub or already clear bracken banks. This statement appears to suggest that scrub and clearings with bracken are of lesser value than closed canopy mature woodland, whereas guidance on good silvicultural and woodland habitat practice, as set out in a range of Natural England publications and in the United Kingdom Forest Strategy (UKFS), clearly contradict that suggestion and identify such features as being of great value within the habitat mosaic of a well-structured woodland. As can be seen in the SC Trees Addendum, the clearing appears to be relatively recent, with woodland flora such as bluebells present and the lower canopy of the retained ash trees at a height that suggest they grew upwards in competition with trees that have subsequently been removed. From a planning perspective *Palm Developments Limited v The Secretary of State for Communities and Local Government* drew the conclusion that, with regard to the Woodland designation in TPO's "saplings are trees and on top of that, a woodland TPO extends to all trees in a woodland, even if not in existence at the time the Order is made". The loss of what is a woodland clearing therefore impacts negatively upon the longevity of a Woodland TPO. Two key points can be drawn from this:

(a) Whilst the applicant sees the clearing as an opportunity to develop their business, clearings are an integral part of the dynamic ebb and flow of woodland canopy cover, offering opportunities for the establishment of less shade tolerant natural regeneration such as oak trees. Loss of open spaces restricts these opportunities.

(b) The Tree Team have concerns that if this application was approved for a change of use then it might well occur that further management of the woodland would create further clearings where the same argument was presented in the future and an incremental erosion of the quality and depth of the woodland would be perpetuated.

The quality and character of this remembrance park relies heavily on its setting in the landscape and particularly the surrounding woodland. But this application for a change of land use would remove the requirement and incentives for the ongoing sustainable woodland management, compatible with the UKFS, broader national and local policies and aspirations for nature recovery networks and sustainable development that would seek, in the medium to long term, for the reinstatement of the woodland back to its natural form, character and land use.

16 July 2021 - objection.

From a silvicultural perspective, the findings and proposed management set out in the ecological assessment and discussed in detail in the Council Ecology team's consultee comments of 2nd July 2021 tend to reinforce the Tree Team's concerns raised in their consultee comments and addendum dated 19th May 2021, in that the proposal does not represent sustainable development in relation to the purpose of the woodland Tree Preservation Order and the natural environment, as set out in national and local policies, therefore the Tree Team's consultee comments dated

19th May 2021 remain pertinent.

4.1.7 Shropshire Council Ecology - objection.

22 April 2021 - comment.

The site is located within The Yeld Local Wildlife Site and subsequently Core habitat within the Environmental Network. Provided photographs suggest the site may be of value to a range of protected species and therefore a planning application on this site must be accompanied by an Ecological Impact Assessment of the land in and surrounding the proposed development and a discussion of any potential impacts resulting from the development.

An Ecological Impact Assessment should consist of:

- An Extended Phase 1 habitat survey, habitat map and target notes on any significant biodiversity or geological features.
- A desk study of historical species records and local, regional or national wildlife designated sites.
- Supplementary detailed surveys (phase 2 habitat surveys, protected or priority species or geological features as appropriate to the site – including those described below).
- Evaluation of the importance of biodiversity or geological features present at a local, regional, national, international level.
- Analysis of the direct and indirect impacts of the development, (during construction, working area, additional infrastructure and post construction).
- Proposed avoidance, mitigation or compensation measures, including method statements where appropriate.
- Legal implications, such as the need for European Protected Species Mitigation Licences or other licences (e.g. badgers).
- Proposed biodiversity or geodiversity enhancement measures.

The Ecological Impact Assessment should be carried out by a suitably qualified and experienced ecologist with the relevant protected species licenses. The Ecological Impact Assessment should be submitted to the Local Planning Authority prior to a planning decision being made.

Specific species/areas of concern;

Hazel Dormice

Dormice have been recorded within 2 kilometres of the site.

On review of the submitted photographs, there is potential for dormice to be present on site and in close proximity to the proposed development site.

Consideration should be given to the presence of dormice and requirement for surveys. If considered appropriate, a dormouse survey should be carried out by an experienced ecologist (a licensed ecologist if nest box surveys are used) and in line with the guidance in the Dormouse Conservation Handbook (Natural England, 2006).

The ecologist should make recommendations as to whether a European Protected Species Licence with respect to Hazel Dormice would be necessary and the need for a mitigation scheme and/or precautionary method statement.

Badgers

This site and its surroundings look suitable to support badgers and records of Badgers are present within 200 metres of the site. An inspection of all suitable habitat to a distance of at least 30 metres from the site boundaries should be carried out. Where badgers are confirmed to be present, a mitigation strategy and precautionary method statement should be provided in support of the planning application.

Environmental Networks

The Shropshire Core Strategy contains, in Policy CS17, provision for mapping and subsequently protecting, maintaining, enhancing and restoring Environmental Networks in the county in line with the recommendations of both The Lawton Review and the National Planning Policy Framework.

This proposed development is located within The Yeld Local Wildlife Site and subsequently Core habitat within the Environmental Network. As such, the proposed scheme must clearly demonstrate how the development will 'promote the conservation, restoration and enhancement of priority habitats and ecological networks' as required by the NPPF and provide a net gain in biodiversity.

2 July 2021 - objection.

The area of land proposed for change of use is located within The Yeld Local Wildlife Site (LWS) which is designated for supporting open birch woodland. The woodland within the site has been identified on MAGIC Maps as being included in the Priority habitat Inventory for Deciduous Woodland and is located within the core area of Shropshire's Environmental Network.

Following review of the provided Ecological Appraisal, undertaken by Greenscape Environmental Limited (15 June 2021), Greenscape identify that 'The site is comprised of a small clearing within the woodland on a west facing slope, dominated by grasses and bluebells (*Hyacinthoides non-scripta*).

*Other notable flora include yellow archangel (*Lamium galeobdolon*), pink purslane (*Claytonia sibirica*), greater stitchwort (*Stellaria holostea*) and cleavers (*Galium aparine*). The species of great botanical interest such as the archangel are generally found on the southern border of the site, within meters of the tree line. The surrounding trees are mostly silver birch (*Betula pendula*), interspersed with hazel (*Corylus avellana*) and elder (*Sambucus nigra*).'*

They go on to state:

'The change of land use will involve the mowing and management of what is currently a valuable wildflower area within a priority habitat. This will inevitably result in the loss of the flowers in the existing opening. As the yellow archangel, by far the rarer and more significant of the flowers on site, is predominantly on the eastern half of the southern boundary, near the tree line, it may be possible to reduce losses by modifying the potential site layout to preserve the area around these flowers.

None of the trees require removal for the change of use as proposed, and so no fragmentation of connective features is anticipated, and the arboreal habitat of value will be retained and remain unaffected'.

The ecological survey recorded Ancient Woodland Indicator (AWI) species within

the proposed site- bluebell and yellow archangel, and the report goes on to state that the site is ancient woodland. Although it is not on the Natural England ancient woodland inventory this is not a comprehensive inventory and field evidence can be used to identify ancient woodland.

The presence of the two species of AWI, therefore, suggests there has been continuity of woodland cover on the site for some time and although it is noted that the trees present are proposed to be retained through the change of use, woodland habitats are not merely areas of tree cover, but also include clearings and more importantly, the woodland soil.

The Ecological Appraisal recommends that, to retain the ecological value of the area proposed for the change of use, it should be managed as a wildflower meadow:

'It is recommended that the wildflower meadow be managed as such, with two mechanical cuts a year, once in March and then again in October. The clippings will be removed from the site itself to ensure the flowers are not smothered and permit continued growth. The clippings will be collected and placed in a designated area amongst the trees adjacent to the clearing, this will provide another habitat in the area as the clippings mulch down.

Naturally once burial plots become occupied there may be an increase in footfall, and so thin strips of increased mowing may be required to allow families to visit. These will be tactically placed and remain the same to ensure the majority of the area is permitted to grow into the valuable wildflower meadow'.

The view of the Council's Ecology team is that, although the change of use is proposed to be within a clearing within the woodland, these features are an integral part of woodland ecosystems and the lack of trees in a small area does not therefore constitute a lack of ecological importance. Clearings are important ecological features of woodland habitats, allowing light penetration and enhanced floral diversity, thus creating structural diversity and micro-habitats. As such the area which is to be affected by the proposals remains important woodland habitat. It is considered that the change of use proposed will not protect, enhance or expand this important ecological asset, which is also a priority habitat, both nationally and locally, and that the proposed management as a wildflower meadow, with close mown paths, would not be suitable management for this area of woodland where ancient woodland indicators have been recorded.

Ancient woodland is an irreplaceable habitat under the 2019 National Planning Policy Framework and Natural England and the Forestry Commission have provided standing advice for ancient woodlands which should be taken into account when determining a planning application.

The advice states that:

"Wooded continuously' does not mean there's been a continuous tree cover across the whole site. Not all trees in the woodland have to be old. Open space, both temporary and permanent, is an important component of ancient woodlands.'
'Development resulting in the loss or deterioration of irreplaceable habitats, (such as ancient woodland and ancient or veteran trees) should be refused, unless there are wholly exceptional reasons and a suitable compensation strategy exists'.

As this application will result in impacts to a priority UK habitat (woodland), a

clear plan for mitigation and enhancement should be submitted, showing the locations of all proposed ecological mitigation and enhancement measures and how this will result in no net loss of woodland habitat, (if the woodland is not deemed as ancient and therefore irreplaceable). Such a plan should then form part of the planning permission.

As such, Shropshire Council Ecology does not support the change of use of this site and recommends refusal.

4.1.8

Rushbury Parish Council - no objection.

4.2

Public Comments

4.2.1

The application has been advertised via notice at the site.

4.2.2

No public representations have been received.

5.0 THE MAIN ISSUES

Principle of development
Landscape and biodiversity
Residential amenity and highways

6.0 OFFICER APPRAISAL

6.1 Principle of development

6.1.1 Planning policy states that new development in the countryside will be strictly controlled, although it generally supports development proposals on appropriate sites which maintain and enhance countryside vitality and character and where they improve the sustainability of rural communities by bringing local economic and community benefits, in accordance with the Council's Core Strategy Policies CS1 and CS5. This would include the retention and appropriate expansion of an existing established business and required community uses and infrastructure which cannot be accommodated within settlements. With regard to small-scale new economic development diversifying the rural economy, applicants will be required to demonstrate the need and benefit for the development proposed.

6.1.2 Core Strategy Policy CS8 states that communities will be assisted by facilitating the timely provision of additional facilities, services and infrastructure to meet identified needs, in locations that are appropriate and accessible and positively encouraging infrastructure, where this has no significant adverse impact on recognised environmental assets.

6.2 Landscape and biodiversity

6.2.1 Paragraph 175 of the National Planning Policy Framework, (NPPF) confirms that plans should allocate land with the least environmental or amenity value and take a strategic approach to maintaining and enhancing networks of habitats and green infrastructure. Meanwhile, paragraph 180 c) of the NPPF states that development

resulting in the loss or deterioration of irreplaceable habitats (such as ancient woodland and ancient or veteran trees) should be refused, unless there are wholly exceptional reasons and a suitable compensation strategy exists.

- 6.2.2 Core Strategy Policy CS17 states that development will identify, protect, enhance, expand and connect Shropshire's environmental assets, to create a multifunctional network of natural and historic resources. This will be achieved by ensuring that all development protects and enhances the diversity, high quality and local character of Shropshire's natural, built and historic environment and does not adversely affect the visual, ecological, geological, heritage or recreational values and functions of these assets, their immediate surroundings or their connecting corridors. Also, that development does not have a significant adverse impact on Shropshire's environmental assets and does not create barriers or sever links between dependant sites.
- 6.2.3 Meanwhile, Policy MD12 of the Site Allocations and Management of Development (SAMDev) Plan ensures that proposals which are likely to have a significant adverse effect, directly, indirectly or cumulatively on, (amongst others), locally designated biodiversity and geological sites; priority species; priority habitats; important woodlands, trees and hedges or ecological networks will only be permitted if it can be clearly demonstrated that:
- a) there is no satisfactory alternative means of avoiding such impacts through re-design or by relocating on an alternative site and;
 - b) the social or economic benefits of the proposal outweigh the harm to the asset.
- 6.2.4 The woodland is protected with a Tree Preservation Order and the Council's Ecology and Tree teams concur with the appointed, private Ecologist that the area is also Ancient Woodland, as well as a Local Wildlife Site.
- 6.2.5 In terms of visual amenity, although the site is located within the AONB and occupies an elevated position within it, there are no new above ground structures or ground levelling proposed and given that the existing woodland would conceal the development site from wider viewpoints, the character of the AONB would be unaffected.
- 6.2.6 Whilst the development would take place in a clearing within the woodland, this remains a priority habitat, which is irreplaceable and the proposed management of the clearing, including mown paths and twice yearly cutting, (with the potential to increase mowing thin strips of land following an increase in footfall) would erode the existing qualities of the important woodland and therefore be unsuitable. The current Remembrance Park has created an appealing and tranquil environment for the public to visit, although it has led to an interruption in habitat networks within the woodland and the proposal would create further erosion. The scheme must show how the social or economic benefits of the development outweigh the environmental harm and evidence provided to demonstrate why the site would not be considered ancient woodland (irreplaceable habitat). Whilst the scheme would relate to the expansion of an existing business and may provide facilities and services beneficial to the local community, a suitable compensation strategy has not been provided and it is considered that any benefits would not outweigh the

harm to the priority woodland.

6.3 Residential amenity and highways

6.3.1 The site is in a remote location and the nearest residential property is almost 600 metres away. Given there is already good vehicular access and parking at the site and the Council's Highways officer has no objection to the scheme, there would be no residential amenity or highway concerns.

7.0 CONCLUSION

The proposed development would have an unacceptable and harmful impact on important woodland and its priority habitat and would fail to protect or enhance the environmental asset. Although there would be no overriding concerns in terms of wider visual and highways impacts or residential amenity, the development would result in the loss or deterioration of irreplaceable habitats and the benefits of the scheme would not outweigh the harm introduced.

8.0 Risk Assessment and Opportunities Appraisal

8.1 Risk Management

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

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

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

8.2 Human Rights

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

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

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

8.3 Equalities

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

9.0 Financial Implications

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

10. Background

Relevant Planning Policies

Central Government Guidance:
National Planning Policy Framework

Shropshire Core Strategy and SAMDev Plan policies:
CS1 - Strategic Approach
CS5 - Countryside and Greenbelt
CS6 - Sustainable Design and Development Principles
CS8 - Facilities, Services and Infrastructure Provision
CS13 - Economic Development, Enterprise and Employment
CS17 - Environmental Networks
CS18 - Sustainable Water Management
MD2 - Sustainable Design
MD7b - General Management of Development in the Countryside
MD12 - Natural Environment

RELEVANT PLANNING HISTORY:

SS/1/03/14101/F Change of use from woodland to burial park and erection of facilities building and access road. PERCON 7th March 2003

11. Additional Information

[View details online:](#)

List of Background Papers
Ecological Appraisal

Cabinet Member (Portfolio Holder)
Councillor Ed Potter

Local Member

Cllr Cecilia Motley