

Development Management Report

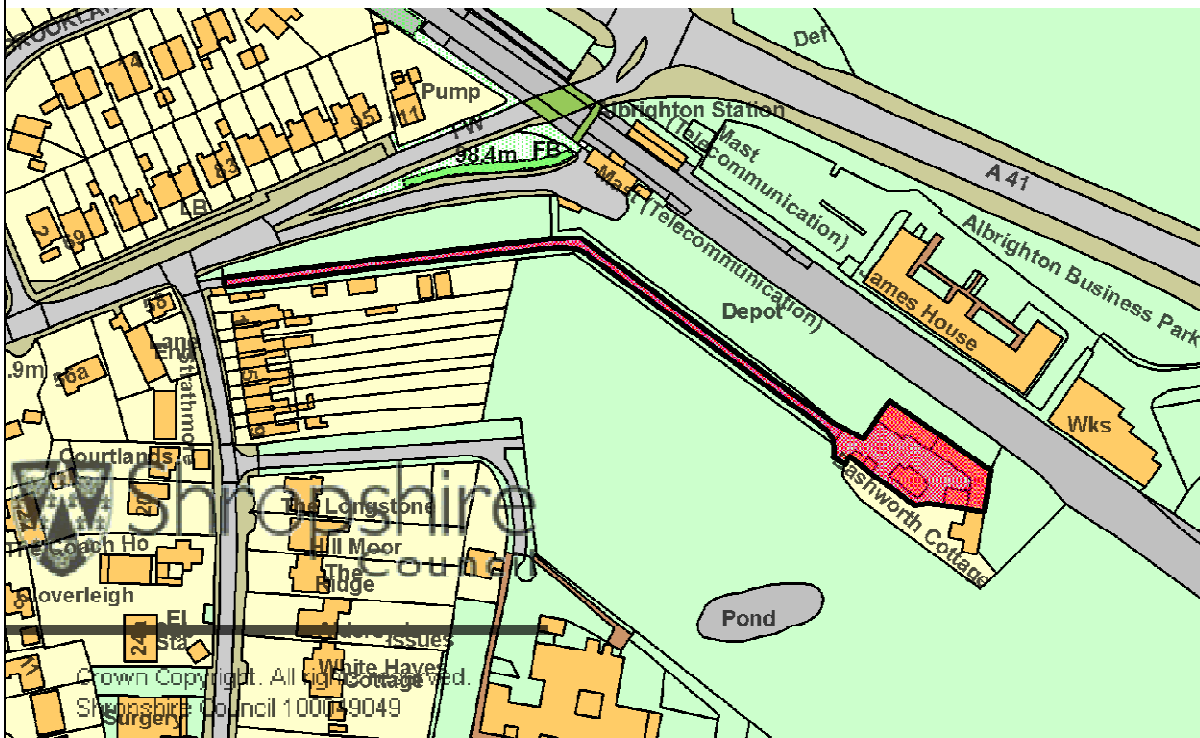
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Summary of Application

Application Number: 13/00097/FUL	Parish: Albrighton
Proposal: Change of use from B1 to C3 (dwelling houses); Demolition of outbuildings and office block; Conversion of existing workshop buildings to form 2 no. 2 bed dwellings; Erection of 4 no. 3 bed dwellings, 1 no. 2 bed dwelling and 1 no. 2 bed flat above garaging; Access improvements; Parking provision; Outside waste storage. (Amended Description).	
Site Address: McKeand Smith & Co Ltd Station Road Albrighton Wolverhampton WV7 3EA	
Applicant: Mr And Mrs P Jemmett	
Case Officer: Lynn Parker	email: planningdmse@shropshire.gov.uk

Grid Ref: 381970 - 304437



Recommendation:- Grant Permission subject to the completion of a Section 106 Agreement in respect of the affordable housing element and subject to the conditions set out in Appendix 1.

REPORT

1.0 THE PROPOSAL

1.1 This application is for the change of use of the Mckeand Smith & Co site from a redundant builders yard with storage and officer buildings (B1) to residential (C3). This involves the demolition of the office block on the south west side of the site and outbuildings on the north side of the site to allow for the erection of 5 no. 2 storey dwellings placed centrally, and the conversion of an existing workshop building on the south east side of the site to form 2 no. dwellings. A 2 storey weighbridge building to the north west of the site and adjacent to its entrance was originally also proposed to be extended and converted to provide the 8th dwelling, but this has subsequently been deleted and replaced by a new build unit within the main body of the site. The new build essentially takes the form of 2 blocks, one facing south west and the other north east into a shared pedestrian amenity space. Each residential unit typically provides either a lounge/dining area with separate kitchen and WC, or a kitchen dining area with separate lounge and WC at ground floor level, and bedrooms with ensuites and/or a bathroom at first floor level. The affordable plot is nominated as Plot 5, one of the 2 bedroom workshop conversions.

1.2 All the properties are afforded private outside amenity space, and communal areas are also indicated. Parking provision for 14 vehicles is indicated on the north west side of the site where the access track enters having extended from Shaw Lane. Foul sewage is proposed to be disposed of via the main sewer, and surface water to soakaway. No trees or hedges are affected by the development. Materials for the new build are indicated as reclaimed red brick walls with feature areas of off white painted render and timber cladding, grey slate roof tiles to match the buildings to be retained, and UPVC guttering and rainwater goods. Triple glazed aluminium windows and doors in light grey will be inserted into the new build and the structures to be retained. Boundaries will be defined by reclaimed red brick walls and timber fencing, the access road will be tarmac, parking/communal amenity courtyard to be Tegula block paving with perimeter planting and the private amenity spaces to be turf with perimeter paving adjacent to doors.

1.3 In addition to the Design and Access Statement, a number of documents have been submitted in support of this application, which can be viewed in full online, but which are summarised below:

Ecological and Protected Species Survey by Camlad Ecology Ltd dated December 2012

- o The survey found signs of very limited bat activity in the roof spaces of the offices and the workshop, birds nests in the workshop and storage buildings, and limited signs of badger activity fairly close to the site. Habitat suitability assessment of the ponds found that they could be suitable breeding ponds for Great Crested Newts, although there is no known local population.

- o The bat activity appears to be limited to episodic use with no regular roosting in the buildings. Careful demolition of these buildings is unlikely to result in an offence under the Habitat Regulations 2012 in relation to bats and their roosts. Demolition of the buildings outside the bird breeding season would avoid harm to breeding birds.
- o The proposed development should not cause any disturbance or harm to badgers.
- o Further survey may be needed in order to assess the likelihood of Great Crested Newts presence around the ponds. If newts are present, the risk to them will need further assessment, as the site itself is not very suitable as a terrestrial habitat.
- o The ecological report makes recommendations for further survey, a precautionary approach with regards to other protected and valued species, and suggest habitat improvement measures.

Preliminary Report on Geotechnical Design and Aspects of Contamination by GIP Ltd dated 9th October 2012

Provides comments and recommendations on:

- Geotechnical Aspects
- Assessment of Contamination
- Assessment of Ground Gases

- 1.4 During the course of the application, both the Ecological and Protected Species Survey and land contamination report were updated, remediation proposed, and marketing material provided:

Protected Species Survey, Amphibians and Bats – Supplementary Report by Camlad Ecology Ltd dated September 2013

An Amphibian Survey in Spring 2013 found no evidence the presence of Great Crested Newts. A very small number of smooth newts were found in the Pond 2. There are very few Great Crested Newt records for a wide area around the site, and none within 5km of the site. There are a few ponds nearby in which Great Crested Newts are very unlikely to be present.

Internal surveying of the buildings in 2013 found no evidence of further bat activity, the quantity of droppings and the locations are typical of episodic use only.

An EPS mitigation licence from Natural England will be needed before work can begin on the office building.

Swallows nest found inside the storage and workshop buildings indicate that other birds are likely to nest there to. Replacement of lost nesting sites should be considered.

Updated Report on Geotechnical Design and Aspects of Contamination by GIP Ltd dated 6th August 2013.

Remediation Proposal by envirotreat dated August 2013

The identified contaminants of concern on the site are metals, cyanides, polycyclic aromatic hydrocarbons, total petroleum hydrocarbons, BTEX and volatile/semi-volatile organic carbons. There is also asbestos contamination to be considered.

In order to assess the risk posed, a conceptual site model (CSM) has been developed based on the intended use of the site, and various remediation options considered in response including 'Do Nothing', 'Excavation and Off-Site Disposal', 'E-Clay Chemical Stabilisation' and 'Bioremediation'. Of these, the source treatment approach selected for the effective remediation of the identified soil and groundwater contamination is the use of Advanced Stabilisation incorporating E-Clay Technology.

Marketing Material received on 18th March 2013

Comprises a business sale engagement form dated 25th October 2010.

- 1.5 Various design amendments have taken place including significantly the removal of the weighbridge building from the application in response to officer's concerns. It is felt that extension to this building would either significantly reduce the outside amenity space afforded to it to an unusable level, or result in an overly contrived appearance incongruous to the street scene and local character. Without extension, the Weighbridge would not provide sufficient internal living accommodation. It is therefore intended to omit the building from this application, and to give further consideration to a potential use for it due to its unique character, rather than demolition. The proposal now includes a 2 bedroom flat with parking underneath in lieu to be erected in the north west corner of the site. Whilst 8 dwellings are still indicated, the new build element of the proposal now comprises 4 no. 3 bedroom dwellings, 1 no. 2 bedroom dwelling and 1 no. 2 bedroom flat. Plot 5, one of the 2 bedroom conversions, has been confirmed as the affordable plot. In addition, plans showing access improvements including passing places, parking provision in relation to waste collection vehicles and outside waste storage has been supplied.

2.0 SITE LOCATION/DESCRIPTION

- 2.1 The site falls within the development boundary of the Market Town of Albrighton and to the north east of the Town Centre. It is accessed via a track of approximately 240m in length which extends from Shaw Road adjacent to its junction with Station Road linked to the A41 in the north. The site is isolated from the residential areas to the west, and bordered by safeguarded land to the south and east, and by a caravan storage yard and the railway line to the north across which there is a business site at James House. There is a single residential property at 'Dashworth Cottage' adjoining the southern side of the site which is attached to the existing workshop building proposed for conversion.
- 2.2 The site comprises a modern office building, a workshop and several brick storage buildings with some parts of their structure that date from the late 19th or early 20th Centuries, and hard surfaced yards. It is separated from the railway line by a hard standing yard containing stored caravans which extends across the northern boundary and down the eastern side of the brick storage buildings, from the upper floor of which it is only really visible. The domestic garden and access drive of 'Dashworth Cottage' runs along the southern and south western side, beyond which is agricultural land using for crop growing and which is the safeguarded land.

- 2.3 The access track is flanked by mature native hedging covering various other boundary treatments and has a 45° bend approximately half way along it. The section of the track off Shaw Lane and up to the bend runs between rear gardens on its south side and a plot of land on its north side which has already benefitted from planning permission for 9 no. 2 storey, terraced dwellings granted under ref: 10/03008/FUL on 8th September 2010 (renewal of ref: BR/APP/FUL/05/0511). The detached 2 storey weighbridge building is positioned on the south side of the access point of the track onto Shaw Road. It is set at right angles to the terrace of dwellings on its south side with a north facing frontage and has a footprint of approximately 15.5m².

3.0 REASON FOR COMMITTEE DETERMINATION OF APPLICATION

- 3.1 Applications where the Parish Council submit a view contrary to officers based on material planning reasons the following tests need to be met:

- (i) These contrary views cannot reasonably be overcome by negotiation or the imposition of planning conditions: and
- (ii) The Area Manager or Principal Planning Officer in consultation with the Committee Chairman or Vice Chairman and the Local Member agrees that the Parish Council has raised material planning issues and that the application should be determined by Committee.

4.0 Community Representations

- 4.1 - Consultee Comments

- 4.1.1 Albrighton Parish Council (11-02-13) – Object: At its meeting on 7th February 2013, objected to planning application 13/00097/FUL on the grounds that it was unexceptional development within the Green Belt. Councillors also registered concerns over the suggested access to the proposed site.

- 4.1.2 SC Affordable Homes – Comment: Whilst not involved in any pre-application discussions regarding this application I can confirm that the information given by the applicant on the Affordable Housing Proforma is correct for a scheme of 8 dwellings with an average floor area of 66m²

The on-site affordable dwelling should be a rented 2-bedroom property provided in accordance with the provisions contained within Chapter 4 and Appendix G of the Supplementary Planning Document on the Type and Affordability of Housing (September 2012). This dwelling will need to be let to someone from the Council's Housing Register as a 'Discounted Rent' dwelling at a maximum of 80% of the open market rent. It will need to be managed by either a Housing Association or approved private landlord and the minimum initial tenancy period will be no less than 12 months.

These provisions will be secured in perpetuity through a Section 106 Legal Agreement.

- 4.1.3 SC Drainage (14-01-13) - The site is classed as brownfield, therefore a 50% betterment to the current surface water flows should be provided in accordance

with Shropshire Council requirements. The use of soakaways should be investigated in the first instance for surface water disposal. The betterment requirement will be assumed to have been achieved if all surface water is disposed of via soakaways. Full details, calculations and location of the percolation tests and the proposed soakaways should be submitted for approval. Advice provided for the surface water drainage requirements if soakaways are not feasible and the encouragement of measures listed to minimise the risk of surface water flooding.

The drainage details, plan and calculations should be submitted for approval prior to the determination of the planning permission. Informatives also suggested.

SC Drainage (14-11-13) - Following comments from The Environment Agency, the use of soakaways are unlikely to be a suitable means of discharge due to the contamination of the ground. An alternative design to attenuate surface water flows from the development should be submitted.

SC Drainage (15-05-14) – No Objection: The drainage information proposing a sealed system due to the contamination of the site is acceptable provided a condition requiring the details is applied if planning permission were to be granted. Condition suggested.

- 4.1.4 SC Highways (04-02-13) - The proposed dwellings would be some distance from the highway, accessed by the existing private lane from the junction at Shaw Lane. This private lane has historically served the site and an adjacent dwelling, although the point where it emerges onto the highway is not ideal due to its close proximity to the Station Road/ Shaw Lane junction and the poor visibility due to the location of the former weighbridge building. The surfacing of the access is in poor condition and it is likely that the intensification of vehicle movements over the footway would lead to its rapid deterioration.

In the interests of highway safety, it is essential the visibility is maintained across the piece of land on the Station Road side of the point where the lane emerges onto the highway. An emerging driver needs to be able to see any approaching vehicles turning left into Shaw Lane before entering the carriageway. It would however appear that this small piece of land is not in the applicants control and although there is currently no problem here, there would be if the land was developed and the visibility and width available was restricted.

The existing access onto the highway is unsuitable to accommodate the level of vehicle movements likely to be generated by 9 dwellings. Details should be provided of how this could be improved and the provision of passing places along the land should be considered to avoid long reverses for vehicles meeting on the bends where they have been unable to see each other coming.

SC Highways (11-11-13) No Objection: The additional details now provided by the applicant address my concerns. These include the provision of passing places on the access road and improvements to the surfacing at the junction of the access track and the highway. It is also shown that sufficient of the shared access point is under the control of the applicant for the safe movement of vehicles associated with the occupation of the development to take place. No highway objections to the

development, conditions recommended relating to construction of the passing places and surfacing of the access track junction prior to occupation.

- 4.1.5 SC Waste Management (21-01-13) – The Design and Access Statement refers to domestic vehicles being able to egress the site in forward gear, however, we will need confirmation that the roadway leading to the site and the turning area will be of adequate size and construction to allow access, turning and exit of vehicles up to 32 tonne GVW rigid body refuse collection vehicle including overhang for tailgate and bin lift and minimum single axle loading of 11 tonnes. A plan is required showing the track of the vehicles within the development, which must not cross any parking places nor involve reversing in or out of the development.

The Proposed Ground Floor Plan refers to *Communal Secure Parking*. However, we will require unhindered access to service the refuse and recycling. The application makes no provision for the collection of recyclable waste. The Household Waste Recycling Act 2003 requires all local authorities in England to collect at least two types of recyclable waste from all households in their area. Shropshire Council currently collects four types of recyclable materials at the kerbside, therefore provision for their storage and collection would need to be considered. Details of the size and layout of the relocated refuse and recycling bin store should be provided. Furthermore, we also provide a 240 litre green bin for green garden waste and this does not appear to have been taken into account where the dwellings have gardens.

We operate a kerbside collection policy where waste containers are collected from the edge of the adopted highway. The long driveway and turning point on this development must be of a suitable sufficient standard to enable collection of the waste. Alternatively, the occupiers of all of the properties will be required to present their waste bins and recycling boxes for collection on the pavement of the adopted highway, which would be at the start of the access drive in Station Road.

SC Waste Management (29-05-14) No Objection: An 8 metre turning circle for the refuse and recycling vehicle has been made available and is shown on the amended plans, there are now no issues relating to collections services for this proposed new development.

- 4.1.6 SC Public Protection (18-02-13) – Comment: The proposed development site has been identified as potentially contaminated land because of past use as a gasworks from at least 1882 until circa 1951. Shropshire Council is not aware of any previous investigations/remedial works undertaken at the site. Therefore there is the potential for significant contamination on the site.

None of the former above ground gasworks structures remains, except the former retort house where coal would have been heated in retorts. Based on experience it is expected that many features of the key gas production processes will remain beneath the existing concrete and buildings. This will include the purifiers, condenser, washer, scrubber, tar/liquor well, oxide floor and gasholder base; the latter is in part below the central office building. Significant contamination is usually associated with these processes.

It is not considered that the submitted Preliminary Report on Geotechnical Design and Aspects of Contamination provides a sufficiently detailed investigation of all key areas. For this reason, the suggested conditions must be included on any approval decision notice.

It should also be noted that soakaways may not be an option for the disposal of surface water given the former use of the land. It is considered that additional more detailed investigation and assessment of the potential risks to both human health and controlled waters is required, before a remediation strategy; the costs of which could be significant, can be considered.

SC Public Protection (28-10-13) – Comment: The results of the additional Site Investigation have been reported within the Updated Report on Geotechnical Design and Aspects of Contamination, and remediation of the site proposed using E-Clay stabilisation technology outlined with an Envirotreat Remediation Proposal. The method proposed is not familiar and raises a number of questions, primarily in respect of the longevity of the treatment and its long term monitoring, and would require authorisation from the Environment Agency. Full contamination land conditions would still be needed if the application were to be approved.

Additionally, a condition is suggested in respect of the potential impact of noise from the adjacent railway line on future occupants.

SC Public Protection (01-05-14) – Comment: Recommend Contaminated Land Conditions: Having regard to the Environment Agency comment it is clear that further investigations and subsequent reports and decision making with regards to contaminated land is required. The applicant will need to demonstrate that they can protect from unacceptable risks to human health as well as controlled waters when submitting future reports for consideration. Contaminated land conditions strongly recommended as previously.

- 4.1.7 Environment Agency (18-02-13) – As the site is a former gas works, there are considerable groundwater protection issues associated with the proposal.

As there is currently insufficient information contained with the submitted Preliminary Report on Geotechnical Design and Aspects of Contamination to establish the risks and remedial measures we would wish to see more extensive site investigation undertaken. We would wish to see these works undertaken upfront in order that the developer can fully appreciate the likely extent of the required remedial works and the associated financial and time implications. At the very least we would wish to ensure that a scope of additional site investigation works is secured up front.

It is also noted that Shropshire Council Drainage have stated that the preferred method for surface water disposal is via soakaways. This is unlikely to be an appropriate option given the former use of the land as there is the potential to re-mobilise ground/water contamination.

Environment Agency (29-04-14) – Recommend conditions relating to land remediation works: Based on our previous response and the additional information submitted we would offer the following additional comments in relation to controlled waters only.

Groundwater and Contaminated Land: The Updated Report indicates that significant soil and groundwater impacts have arisen as a result of the former gasworks activities. The gross contamination is generally associated with specific structures however, the investigation also reveals that significant widespread contamination is present implying migration from the structures and potential spillage/disposal at surface. The monitoring boreholes are restricted in depth, therefore the vertical contaminant migration is not well defined, and the boreholes may not sufficiently define the vertical contaminant migration on the site where the evidence provided shows that migration has occurred.

Remediation Proposal: Based on the sampling results and observation on site, free product and gross contamination would be expected to be removed from the site. The use of e-clay to address these aspects is not appropriate due to the extent of the contamination. Further 'deeper' site investigation information and DQRA (detailed quantitative risk assessment) will be needed to finalise the remedial approach as the remediation information submitted is not sufficient. The recommended planning conditions will seek to secure this additional information and remediation.

Surface Water Drainage: It is expected that the Council's Flood and Water Management Team to lead on and approve the detailed surface water drainage design.

Foundations/Piling: Piling or any other foundation designs using penetrative methods can result in risks to potable supplies from, for example, pollution/turbidity, risk of mobilising contamination, drilling through different aquifers and creating preferential pathways. Based on the findings of the Site Investigation undertaken, any proposed foundation solutions will need to be chosen to avoid the creation of vertical migration pathways – a CFA cast in situ solution is recommended. The applicant will need to submit a Foundation Works Risk Assessment to demonstrate that any proposed piling will not result in contamination of groundwater.

- 4.1.8 SC Ecology (06-02-13) – In the absence of additional information relating to bats and Great Crested Newts, refusal is recommended, since it is not possible to conclude that the proposal will not cause an offence under the Conservation of Habitats and Species Regulations (2010). Details of the additional information required provided.

SC Ecology (23-04-14) – No Objection: I have read the above application and the supporting documents including the Ecological and Protected Species Survey by Camlad Ecology (December 2012) and the Supplementary Report conducted by Camlad Ecology (September 2013). Planning Officer to complete tests 1 and 2 on the European Protected Species 3 tests matrix and include the finished matrix within their site report. Conditions recommended in relation to bats and nesting wild birds, informatives in relation to bats, Great Crested Newts, nesting wild birds and badgers.

4.1.9 Shropshire Fire and Rescue - Standard advice provided in relation to ' Access for Emergency Fire Service Vehicles', 'Water Supplies For Fire Fighting' and 'Sprinkler Systems – Residential Premises'.

4.2 - Public Comments

4.2.1 Four letter of representation have been received from members of the public, two of which have been submitted by the Albrighton and District Civic Society. These can be viewed in full online, but are précised as follows:

- o As the adjacent railway station and surgery on Shaw Lane have insufficient parking, the area is extremely congested for much of the working week. There is a great need for additional off road parking.
- o The access to the site should be suitable for 2 way traffic.
- o As the site adjacent has been taken out of the Green Belt and there are now 3 applications for housing development in this area, the future of the whole area should be considered rather than piecemeal development which serves only the interests of a few landowners.
- o As least 2 road entrances to the site should be built as consideration of the wider site and its access to the village centre.
- o Concerned about water and drainage, flooding as due to the amount of rubbish and materials dumped from the builders in the hedge, the water comes onto my side.
- o The conversion of the Weighbridge building is welcomed. This building along with the neighbouring row of cottages, the stationmaster's house and ticket office and the cottages adjacent to the railway bridge are of historic interest and should be a designated Conservation Area. The conversion should be treated it were already a Conservation Area.
- o As the hedge is not that secure, concerned about security in the lane.

Albrighton and District Civic Society

- o There should be a condition imposed to preserve a public right of way from the land behind the school to enable pedestrian access across the McKeand Smith access road up to the land in front of the station.
- o There is also a possibility of land swap for the triangular piece of land on the station access road to enable additional parking for station users. A condition should be imposed to preserve that option.
- o If these 2 conditions are imposed, we support this application.
- o Emphasize the need for a suitable 2 way access road.

5.0 THE MAIN ISSUES

- o Principle of development
- o Design, scale and character.
- o Visual and physical impact
- o Ground Contamination
- o Drainage
- o Waste Management
- o Access and parking
- o Ecology

6.0 OFFICER APPRAISAL**6.1 Principle of development**

- 6.1.1 The proposed site falls within the Market Town of Albrighton in which the principle of erecting open market dwellings is supported by LDF Core Strategy Policy CS3 – The Market Towns and Other Key Centres, as a more sustainable form of development. Bridgnorth District Local Plan ‘Saved’ Policy H3 identifies Albrighton as a key settlement where residential development will be permitted provided the site is appropriate. The Market Towns and other key centres are identified in LDF Core Strategy Policy CS1 – Strategic Approach as maintaining and enhancing their traditional roles in providing services and employment and accommodating around 40% of Shropshire’s residential development over the plan period. Greater self-containment is the key objective of the Market Town revitalisation programme. The site is not within the Green Belt as suggested in the Parish Council comments.
- 6.1.2 The ‘appropriateness’ of the site can be considered as the perceived interaction between the proposed and existing visual and physical factors involved. Both the National Planning Policy Framework (NPPF) and LDF Core Strategy Policies CS6 and CS17 direct that a high quality development should be created whilst contributing to local character, and protecting and enhancing the natural built and historic environment. The reuse of existing resources, including the conversion of existing buildings and brownfield land is additionally encouraged. These considerations should benefit for the lifetime of the development and provide positive improvements in people’s quality of life.
- 6.1.3 The principle of developing the proposed site for residential use is considered acceptable due to its ‘appropriateness’, as it is positioned within the key settlement of Albrighton and it involves the conversion of unused buildings and the use of brownfield land. Additionally, within the emerging SAMDev the site directly to the south and west is allocated as housing site ALB002 and it is stated that, *‘Albrighton will provide for local needs, delivering around 250 dwellings over the Plan period. Local needs will predominantly be met on two allocated sites, with small-scale windfall development within the development boundary making up the balance’*. (S1. Albrighton Area)
- 6.1.4 LDF Policy CS11 – Type and Affordability of Housing, requires that all new open market housing development makes appropriate contributions to the provision of local needs affordable housing having regard to the current prevailing target rate. For all sites of 8 dwellings and above, the provision of affordable housing is expected to be on site, and Plot 5 has been indicated as such. An affordable dwelling via a Section 106 Agreement has been secured.
- 6.1.5 Paragraph 22 of the NPPF states that where there is no reasonable prospect of a site being used for the allocated employment use, applications for alternative uses of land or buildings should be treated on their own merits, having regard to market signals and the relative need for different land uses to support sustainable local communities. ‘No reasonable prospect’ of the site continuing to be used for employment purposes has been satisfactorily demonstrated through the inclusion of marketing material which indicates that it has been marketed from 25th October 2010. The company directors retired in 2011 with no buyers being found due to the economic decline over the last few years.

6.2 Design, scale and character

6.2.1 It is considered that in relation to the confines and shape of the site, the development proposed is well considered, given that the allocated parking provision and waste storage is restricted to the north western side adjacent to the access road, and the residential area pedestrianized. The new build is placed centrally where the space will be opened up following the removal of the existing modern office building, and the new dwellings positioned further away from the boundary with the railway to the north than the current structures sited along it. The buildings to be converted on the south east side have some merit as traditional brick structures, thus retaining the more visually attractive element of the site with original character. The site additionally allows for each residential unit to have a suitable amount of outside amenity space. The proposed layout of the buildings largely references the existing, and it is not felt that the scale of the built environment within the site will be significantly increased. Relationships between the dwellings will afford an appropriate amount of privacy.

6.2.2 Discussions have taken place during the course of the application in relation to the design of the new build which have resulted in minimal revisions to the appearance compared with the originally submitted. The scheme as now proposed is not so unacceptable a design for a recommendation of refusal however, as the site is adjacent to the railway line, the external appearance of the new residential units could have reflected associated outbuildings/warehousing.

6.3 Visual and physical impact

6.3.1 As mentioned in paragraph 6.2.1 above, as the existing scale of the buildings is not considered to be greatly exceeded by the new development, the physical impact of this area of the built environment will not be increased from the wider environment. Due to the way the site has previously developed to serve the former business, the appearances of the buildings do not relate to each other, their positioning is somewhat incoherent, and the level of maintenance varies. Therefore the proposed development will improve the visual appearance of the site by both rationalizing it and renewing it.

6.3.2 As the site is isolated from existing residential areas to the west and bordered by a caravan storage yard and the railway line and business site to the north, and open safeguarded land to the south and east, its impact on adjacent properties will be minimal. The single adjacent residential property at 'Dashworth Cottage' adjoining the southern side of the site is attached to the existing workshop building proposed for conversion. However it is considered that there will be no greater impact from a residential use than from the previous business use of the site, and consideration has been demonstrated in the design of the new dwellings to ensure no overlooking or overbearing impact occurs on this cottage. The land immediately to the south and east of the cottage is allocated for housing within the emerging SAMDev.

6.4 Ground contamination

6.4.1 As the site is a former gas works, unsurprisingly the submission of a Site Investigation Report has identified ground contamination. Both the Environment Agency and SC Public Protection consider that whilst the report submitted provides sufficient initial information, further investigation and appropriate remediation is required. However, it is felt that this can be dealt with via conditions, the content of which has been clearly specified by those two bodies.

6.5 Drainage

6.5.1 In this case, the installation of acceptable foul and surface water drainage will be related to the ground contamination issues. It has been identified that whilst mains sewer connection is achievable, soakaways are not a suitable means of surface water disposal for this site. For this reason, a sealed drainage system has been proposed, the details of which can be provided in respect of the carefully worded condition set out by SC Drainage.

6.6 Waste Management

6.6.1 Due to the site being positioned along a 240m track, it is not feasible for waste storage bins to be taken out onto Station Road by the future residents, nor does the track, even with the passing places proposed, provide appropriate access for the standard size waste disposal vehicles. However, a smaller waste disposal vehicle already uses the track in order to provide the service to 'Dashworth Cottage. SC Waste Management have agreed that this vehicle can also service the proposed development and that the turning circle shown on drawing no. PL – 110 193 Rev A provides suitable access space for this smaller sized waste disposal vehicle. This plan also shows an acceptable sized dedicated waste/green bin store with space for 20 bins in the western corner of the site adjacent to the access point.

6.7 Access and parking

6.7.1 Initially concerns were raised by SC Highways in relation to the visibility at the point of access of the track serving the site onto Station Road, and that the existing road was not suitable to accommodate the level of vehicular movements likely to be generated from the 8 dwellings proposed. However, amended plans shown the provision of passing places on the access road and improvements to the surfacing at the junction of the access track with the highway are considered to have addressed the concerns raised both by SC Highways and public representation. It has also been demonstrated that sufficient of the shared access point is under the control of the applicant for the safe movement of vehicles associated with the proposed development. Conditions will be applied to ensure that the construction of the passing places and surfacing of the access track takes place prior to the occupation of the development.

6.8 Ecology

6.8.1 Following the recommendation of conditions by the Planning Ecologist in response to the Ecological and Protected Species Survey and the Supplementary Report, it is considered that these measures will be sufficient to ensure that any protected species at the site are suitably provided for.

7.0 CONCLUSION

7.1 The site is in a sustainable location within the development boundary of one of Shropshire's Market Towns and this windfall development will provide an affordable dwelling alongside 7 other residential units. The development can be laid out and designed to an appropriately high quality without detrimental impact on the character of the area, the amenities of neighbouring residents or the biodiversity at the site. Significant improvements will be made to the drainage of the site and access into it, and land contamination present can be effectively dealt with.

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 three months 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 1970.

9.0 Financial Implications

There are likely financial implications if the decision and / or imposition of conditions is challenged by a planning appeal or judicial review. The costs of defending any decision will be met by the authority and will vary dependent on the

scale and nature of the proposal. Local financial considerations are capable of being taken into account when determining this planning application – insofar as they are material to the application. The weight given to this issue is a matter for the decision maker.

10. Background

Relevant Planning Policies

Central Government Guidance:
National Planning Policy Framework

Core Strategy and Saved Policies:
CS3 - Market Towns And Other Key Centres
CS6 - Sustainable Design And Development Principles
CS9 - Infrastructure Contributions
CS11 - Type And Affordability Of Housing
CS17 - Environmental Networks

H3 - Residential Developments In Main Settlements
D6 - Access And Car Parking

SPD Type And Affordability Of Housing

RELEVANT PLANNING HISTORY:

None relevant

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

Design and Access Statement dated January 2013

Ecological and Protected Species Survey by Camlad Ecology Ltd dated December 2012

Protected Species Survey, Amphibians and Bats – Supplementary Report by Camlad Ecology Ltd dated September 2013

Preliminary Report on Geotechnical Design and Aspects of Contamination by GIP Ltd dated 9th October 2012

Updated Report on Geotechnical Design and Aspects of Contamination by GIP Ltd dated 6th August 2013.

Remediation Proposal by enviro-treat dated August 2013

Marketing Material received on 18th March 2013

Cabinet Member (Portfolio Holder)
Cllr M. Price

Local Member
Cllr Malcolm Pate

Appendices
APPENDIX 1 – Conditions
APPENDIX 2 - European Protected Species – Consideration of the three tests.

APPENDIX 1

Conditions

STANDARD CONDITIONS

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

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

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

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

CONDITIONS THAT REQUIRE APPROVAL BEFORE THE DEVELOPMENT COMMENCES

3. No built development shall commence until samples of all external materials including hard surfacing, have been first submitted to and approved in writing by the Local Planning Authority. The development shall be carried out in accordance with the approval details.

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

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 completed before the development is occupied.

Reason: To ensure satisfactory drainage of the site and to avoid flooding.

5. Drainage calculations to limit the proposed discharge, for a range of 1 in 100 year plus 30% storm durations, to an equivalent existing run-off rate based on a rainfall intensity of 50mm/hr, plus 50% betterment should be submitted for approval by the local planning authority prior to the commencement of development. The attenuation drainage system should be designed so that there will be no flooding of any property either within the proposed development or any other in the vicinity. There should be no discharge to a surface water body or sewer that results from the first 5mm of any rainfall event.

Reason: To ensure that the proposed surface water drainage systems for the site are fully compliant with regulations and are of a robust design.

6. No infiltration of surface water drainage into the ground is permitted other than with the express written consent of the local planning authority, which may be given for those parts of the site where it has been demonstrated that there is no resultant unacceptable

risk to controlled waters. The development shall be carried out in accordance with the approval details.

Reason: In order to protect the underlying groundwater and wider water environment.

7. Piling or any other foundation designs using penetrative methods shall not be permitted other than with the express written consent of the local planning authority, which may be given for those parts of the site where it has been demonstrated that there is no resultant unacceptable risk to groundwater. The development shall be carried out in accordance with the approved details.

Reason: In order to protect the underlying groundwater and wider water environment.

8. No development, or phasing as agreed below, shall take place until the following components of a scheme to deal with the risks associated with contamination of the site are submitted to and approved, in writing, by the local planning authority:

- 1) A supplementary site investigation scheme, based on GIP report entitled 'Updated report on geotechnical design and aspect of contamination for a proposed residential development at the former McKeand and Smith premises, Station Road, Albrighton' dated August 2013 to provide information for a detailed assessment of the risk to all receptors that may be affected, including those off site.

- 2) The site investigation results and the detailed risk assessment (1) and, based on these, an options appraisal and remediation strategy, if necessary, of the remediation measures required and how they are to be undertaken.

- 3) A verification plan providing details of the data that will be collected in order to demonstrate that the works set out in (2) are complete and identifying any requirements for longer-term monitoring of pollutant linkages, maintenance and arrangements for contingency action. This should include any proposed phasing of demolition or commencement of other works.

- 4) Prior to occupation of any part of the development (unless in accordance with agreed phasing under part 3 above) a verification (validation) report demonstrating completion of the works set out in the approved remediation strategy (2 and 3). The report shall include results of any sampling and monitoring. It shall also include any plan (a long-term monitoring and maintenance plan) for longer term monitoring of pollutant linkages, maintenance and arrangements for contingency action and for the reporting of this to the Local Planning Authority.

Any changes to these components require the express written consent of the Local Planning Authority. The scheme shall be implemented as approved.

Reason: To protect ground and surface waters ('controlled waters' as defined under the Water Resources Act 1991).

9. If, during development, contamination not previously identified is found to be present at the site then no further development (unless otherwise agreed in writing with the local planning authority) shall be carried out until the developer has submitted a remediation

strategy to the local planning authority detailing how this unsuspected contamination shall be dealt with and obtained written approval from the local planning authority. The remediation strategy shall be implemented as approved.

Reason: In order to protect the underlying groundwater and wider water

10. Prior to any construction work taking place, a noise assessment shall be submitted and mitigation measures approved in writing. Any mitigation approved will be installed in line with the approved mitigation proposal.

Reason: To protect the health and well being of future residents.

11. No development approved by this permission shall commence until there has been submitted to and approved by the local planning authority a scheme of landscaping and these works shall be carried out as approved. The submitted scheme shall include:

- Means of enclosure
- Hard surfacing materials
- Minor artefacts and structures (e.g. furniture, play equipment, refuse or other storage units, signs, lighting)
- Planting plans
- Written specifications (including cultivation and other operations associated with plant and grass establishment)
- Schedules of plants, noting species, planting sizes and proposed numbers/densities where appropriate
- Implementation timetables

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

12. All hard and soft landscape works shall be carried out in accordance with the approved details and to a reasonable standard in accordance with the relevant recommendations of appropriate British Standard 4428:1989. The works shall be carried out prior to the occupation of any part of the development or in accordance with the timetable agreed with the Local Planning Authority. Any trees or plants that, within a period of five years after planting, are removed, die or become seriously damaged or defective, shall 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.

13. Work on the office building shall not commence until a European Protected Species (EPS) Mitigation Licence with respect to Bats has been obtained and submitted to the local planning authority for the proposed work prior to the commencement of works on the site. Work shall be carried out strictly in accordance with the granted EPS Mitigation Licence.

Reason: To ensure the protection of Bats, a European Protected Species

14. All development, demolition or site clearance procedures on the site to which this consent applies shall be undertaken in line with the Supplementary Report conducted by Camlad Ecology (September 2013).

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

CONDITIONS THAT REQUIRE APPROVAL DURING THE CONSTRUCTION/PRIOR TO THE OCCUPATION OF THE DEVELOPMENT

15. A total of 4 Schwegler 1FQ bat box or similar woodcrete bat box variety suitable for nursery or summer roosting for small crevice dwelling bat species shall be erected on the site as instructed in the Supplementary Report conducted by Camlad Ecology (September 2013). Bat boxes shall be erected prior to first use of the buildings hereby permitted and as shown on a site plan. All boxes must be at an appropriate height above the ground with a clear flight path and thereafter be permanently retained.

Reason: To ensure the provision of roosting opportunities for bats which are European Protected Species.

16. Prior to the erection of any external lighting on the site a lighting plan shall be submitted to and approved in writing by the local planning authority. The development shall be carried out in accordance with the approved details and thereafter retained for the lifetime of the development. The submitted scheme shall be designed to take into account the advice on lighting set out in the Bat Conservation Trust booklet Bats and Lighting in the UK.

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

17. A total of 5 woodcrete artificial nests suitable for small birds such sparrow and swallow shall be erected on the site prior to first occupation of the buildings hereby permitted.

Reason: To ensure the provision of nesting opportunities for wild birds

18. The dwellings hereby approved shall not be first occupied until the passing places shown on approved plan have been constructed and surfaced and drained in accordance with details to be submitted to and approved in writing by the Local Planning Authority, and thereafter shall be kept clear and maintained at all times for their intended purpose.

Reason: In the interests of highway safety.

19. The dwellings hereby approved shall not be first occupied until the access track has been surfaced at its junction with the highway in accordance with the submitted drawing.

Reason: In the interests of highway safety.

20. The development hereby permitted shall not be brought into use until the car parking shown on the approved plans has been provided, properly laid out, hard surfaced and

drained, and the space shall be maintained thereafter free of any impediment to its designated use.

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

CONDITIONS THAT ARE RELEVANT FOR THE LIFETIME OF THE DEVELOPMENT

21. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 1995 (or any order revoking or re-enacting that order with or without modification), the following development shall not be undertaken without express planning permission first being obtained from the Local Planning Authority:-

- extension to the dwelling
- free standing building within the curtilage of the dwelling
- addition or alteration to the roof
- erection of a porch
- hard surfacing
- container for the storage of oil
- satellite antenna
- fences, gates or walls
- any windows or dormer windows

Reason: To enable the Local Planning Authority to control the development and so safeguard the character and visual amenities of the area, and to ensure that adequate private open space is retained within the curtilage of the building.

22. The windows detailed below shall be glazed with obscure glass and shall thereafter be retained. No further windows or other openings shall be formed in those elevations unless otherwise agreed by the Local Planning Authority:

Plot 1 - The first floor bathroom window on the south west facing elevation.

Plot 2 - The two first floor ensuite windows on the south west facing elevation.

Plot 3 - The first floor Bedroom 2 window on the south east facing elevation.

Plot 6 - The first floor bathroom, landing and ensuite windows on the north east facing elevation.

- The first floor Bedroom 1 window on the south east facing elevation.

Reason: To preserve the amenity and privacy of adjoining properties.

Informatives

1. Where there are pre commencement conditions that require the submission of information for approval prior to development commencing at least 21 days notice is required to enable proper consideration to be given.
2. Your attention is specifically drawn to the conditions above that require the Local Planning Authority's approval of materials, details, information, drawings etc. In

accordance with Article 21 of the Town & Country Planning (Development Management Procedure) Order 2010 a fee is required to be paid to the Local Planning Authority for requests to discharge conditions. Requests are to be made on forms available from www.planningportal.gov.uk or from the Local Planning Authority. The fee required is £97 per request, and £28 for existing residential properties.

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

3. THIS PERMISSION DOES NOT CONVEY A BUILDING REGULATIONS APPROVAL under the Building Regulations 2010. The works may also require Building Regulations approval. If you have not already done so, you should contact the Council's Building Control Section on 01743 252430 or 01743 252440.
4. If your application has been submitted electronically to the Council you can view the relevant plans online at www.shropshire.gov.uk. Paper copies can be provided, subject to copying charges, from Planning Services on 01743 252621.
5. All species of bats found in the UK are European Protected Species under the Habitats Directive 1992, the Conservation of Species and Habitats Regulations 2010 and the Wildlife & Countryside Act 1981 (as amended).

If a live bat should be discovered on site at any point during the development then work must halt and Natural England should be contacted for advice.

6. Great Crested Newts are protected under the European Council Directive of 12 May 1992 on the conservation of natural habitats and of wild fauna and flora (known as the Habitats Directive 1992), the Conservation of Habitats and Species Regulations 2010 and under the Wildlife & Countryside Act 1981 (as amended).

If a Great Crested Newt is discovered on the site at any time then all work must halt and Natural England should be contacted for advice.

7. Where possible trenches should be excavated and closed in the same day to prevent any wildlife becoming trapped. If it is necessary to leave a trench open overnight then it should be sealed with a closefitting plywood cover or a means of escape should be provided in the form of a shallow sloping earth ramp, sloped board or plank. Any open pipework should be capped overnight. All open trenches and pipework should be inspected at the start of each working day to ensure no animal is trapped.
8. On the site to which this consent applies the storage of all building materials, rubble, bricks and soil must either be on pallets or in skips or other suitable containers to prevent their use as refuges by wildlife.
9. The active nests of all wild birds are protected under the Wildlife & Countryside Act 1981 (As amended). An active nest is one being built, containing eggs or chicks, or on which fledged chicks are still dependent.

All clearance, conversion and demolition work in association with the approved scheme shall be carried out outside of the bird nesting season which runs from March to September inclusive

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

10. Where possible trenches should be excavated and closed in the same day to prevent any wildlife becoming trapped. If it is necessary to leave a trench open overnight then it should be sealed with a closefitting plywood cover or a means of escape should be provided in the form of a shallow sloping earth ramp, sloped board or plank. Any open pipework should be capped overnight. All open trenches and pipework should be inspected at the start of each working day to ensure no animal is trapped.
11. Consent is required from the service provider to connect to the mains foul/surface water sewers.
12. Contaminated soil that is, or must be disposed of, is waste. Therefore, its handling, transport, treatment and disposal is subject to waste management legislation, which includes:
 - Duty of Care Regulations 1991;
 - Hazardous Waste (England and Wales) Regulations 2005;
 - Environmental Permitting (England and Wales) Regulations 2010;
 - The Waste (England and Wales) Regulations 2011;

Developers should ensure that all contaminated materials are adequately characterised both chemically and physically in line with British Standard BS EN 14899:2005 'Characterization of Waste - Sampling of Waste Materials - Framework for the Preparation and Application of a Sampling Plan' and that the permitting status of any proposed treatment or disposal activity is clear. If in doubt, the Environment Agency should be contacted for advice at an early stage to avoid any delays. If the total quantity of waste material to be produced at or taken off site is hazardous waste and is 500kg or greater in any 12 month period the developer will need to register with us as a hazardous waste producer. Refer to our website at www.environment-agency.gov.uk for more information.

The CLAIRE Definition of Waste: Development Industry Code of Practice (version 2) provides operators with a framework for determining whether or not excavated material arising from site during remediation and/or land development works are waste or have ceased to be waste. Under the Code of Practice:

- excavated materials that are recovered via a treatment operation can be re-used on-site providing they are treated to a standard such that they fit for purpose and unlikely to cause pollution;
- treated materials can be transferred between sites as part of a hub and cluster project;

- some naturally occurring clean material can be transferred directly between sites. Developers should ensure that all contaminated materials are adequately characterised both chemically and physically, and that the permitting status of any proposed on site operations are clear. If in doubt, the Environment Agency should be contacted for advice at an early stage to avoid any delays;

The Environment Agency recommends that developers should refer to our position statement on the Definition of Waste: Development Industry Code of Practice and website at www.environment-agency.gov.uk for further guidance. We would also recommend that developers should:

1. Follow the risk management framework provided in CLR11, Model Procedures for the Management of Land Contamination, when dealing with land affected by contamination.
2. Refer to the Environment Agency Guiding principles for land contamination for the type of information that we required in order to assess risks to controlled waters from the site. The Local Authority can advise on risk to other receptors, such as human health.

Note: The remedial works associated with this development will require an Environmental Permit under the Environmental Permitting Regulations 2010, from the Environment Agency, unless an exemption applies. The applicant is advised to contact the Environment Agency on 08708 506 506 for further advice and to discuss the issues likely to be raised. Additional 'Environmental Permitting Guidance' can be accessed via our main website (<http://www.environment-agency.gov.uk>).

13. The land and premises referred to in this planning permission are the subject of an Agreement under Section 106 of the Town and Country Planning Act 1990.
14. In determining the application the Local Planning Authority gave consideration to the following policies:

Central Government Guidance:
National Planning Policy Framework

LDF Core Strategy Policies
CS3 - Market Towns And Other Key Centres
CS6 - Sustainable Design And Development Principles
CS9 - Infrastructure Contributions
CS11 - Type And Affordability Of Housing
CS17 - Environmental Networks
CS18 – Sustainable Water Management

Bridgnorth District Council 'Saved' Local Plan Policies:
H3 - Residential Developments In Main Settlements
D6 - Access And Car Parking

SPD Type And Affordability Of Housing

15. In arriving at this decision the Council has used its best endeavours to work with the applicant in a positive and proactive manner to secure an appropriate outcome as required in the National Planning Policy Framework paragraph 187.

APPENDIX 2

EUROPEAN PROTECTED SPECIES – Consideration of the three tests

Application name and reference number:

13/00097/FUL

McKeand Smith & Co Ltd
Station Road
Albrighton
Wolverhampton
WV7 3EA

Change of use from B1 to C3 (dwelling houses); Demolition of outbuildings and office block; Conversion of existing workshop buildings to form 2 no. 2 bed dwellings; Erection of 4 no. 3 bed dwellings, 1 no. 2 bed dwelling and 1 no. 2 bed flat above garaging; Access improvements; Parking provision; Outside waste storage.
(Amended Description).

Date of consideration of three tests:

24 April 2014

Consideration of three tests carried out by:

Nicola Stone
Assistant Biodiversity Officer
01743-252556

1 Is the development ‘in the interests of public health and public safety, or for other imperative reasons of overriding public interest, including those of a social or economic nature and beneficial consequences of primary importance for the environment’?

The larger proportion of the proposed dwellings will replace existing buildings which show signs of disrepair and are regarded as not fit for the purpose for which they were intended without substantial financial support. The replacement structures are of a higher quality design appropriate to the character and context of the site in addition to being windfall residential units within a Shropshire Market Town Development Boundary where the requirement for a five year land supply within Shropshire Council jurisdiction is not currently being fulfilled. The buildings will make a positive contribution to their environment.

2 Is there ‘no satisfactory alternative’?

No, the alternative is to allow the site to become fully derelict or to completely remove all the structures eradicating the character of the site and potentially providing a more intense built environment. The proposed residential units will establish a more sustainable form of development for the site.

3 Is the proposed activity 'not detrimental to the maintenance of the populations of the species concerned at a favourable conservation status in their natural range'?

There is evidence of scattered Pipistrelle droppings within the loft spaces of the office and workshop. There is no evidence of roosting bats in the other buildings on the site according to Camlad Ecology (2012). Camlad Ecology concluded that the scattered droppings are evidence of episodic roosting. Bat activity surveys were conducted, in line with Natural England's guidelines, and found no evidence of further bat activity in these buildings.

Camlad Ecology concludes that an EPS mitigation licence will be required before work can begin on the office building.

Camlad Ecology has recommended that clearing the site and initial demolition work is carried out in late September to November and Mid February to mid-April. Bat boxes will be erected on site in order to mitigate for the loss of a bat roost.

The proposed development will not be detrimental to the maintenance of the populations of bats at a favourable conservation status within their natural range provided that the following conditions detailed in the response from Nicola Stone to Lynn Parker dated 23th April 2014 are on the decision notice and are appropriately enforced:

1. Work on the office building shall not commence until a European Protected Species (EPS) Mitigation Licence with respect to Bats has been obtained and submitted to the local planning authority for the proposed work prior to the commencement of works on the site. Work shall be carried out strictly in accordance with the granted EPS Mitigation Licence.

Reason: To ensure the protection of Bats, a European Protected Species

2. A total of 4 Schwegler 1FQ bat box or similar woodcrete bat box variety suitable for nursery or summer roosting for small crevice dwelling bat species shall be erected on the site as instructed in the Supplementary Report conducted by Camlad Ecology (September 2013). Boxes shall be erected prior to first use of the building hereby permitted and as shown on a site plan. All boxes must be at an appropriate height above the ground with a clear flight path and thereafter be permanently retained.

Reason: To ensure the provision of roosting opportunities for bats which are European Protected Species

3. All development, demolition or site clearance procedures on the site to which this consent applies shall be undertaken in line with the Supplementary Report conducted by Camlad Ecology (September 2013).

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

4. Prior to the erection of any external lighting on the site a lighting plan shall be submitted to and approved in writing by the local planning authority. The development shall be carried out in accordance with the approved details and thereafter retained for the lifetime of the development. The submitted scheme shall be designed to take into account the advice on lighting set out in the Bat Conservation Trust booklet *Bats and Lighting in the UK*

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

Informative

All species of bats found in the UK are European Protected Species under the Habitats Directive 1992, the Conservation of Species and Habitats Regulations 2010 and the Wildlife & Countryside Act 1981 (as amended).

If a live bat should be discovered on site at any point during the development then work must halt and Natural England should be contacted for advice.

Guidance for filling in the EPS form

The three tests detailed below must be satisfied in all cases where a European Protected Species may be affected and where derogation under Article 16 of the EC Habitats Directive 1992 would be required – i.e. an EPS licence to allow an activity which would otherwise be unlawful.

In cases where potential impacts upon a European Protected Species can be dealt with by appropriate precautionary methods of working which would make derogation unnecessary; since no offence is likely to be committed, it is not appropriate to consider the three tests.

Test 1 'overriding public interest' and test 2 'no satisfactory alternative' should be addressed by Shropshire Council planning team. Test 3 'favourable conservation status' should be addressed by Shropshire Council Ecologists with guidance from Natural England.

1 Is the purpose of the development/damaging activity for '*Preserving public health or public safety or other imperative reasons of overriding public interest including those of a social or economic nature and beneficial consequences of primary importance for the environment*'?

NB in order to meet this test, the purpose of preserving public health or public safety must also be shown to constitute a reason of overriding public interest. You would need to demonstrate that action is required to alleviate a clear and imminent danger to members of the general public.

If an unstable structure (e.g. buildings, trees) is involved, either through neglect or outside influences (e.g. severe weather or seismic events), supporting evidence from an appropriately qualified person such as a structural engineer, arboriculturalist or tree surgeon should be sought.

If vandalism or trespass is used as an argument, evidence of reasonable measures to exclude the general public from the site must be presented. Evidence may be provided by the local police or fire services in relation to the number of incidents dealt with.

Only public interests can be balanced against the conservation aims of the EC Habitats Directive (1992), projects that are entirely in the interest of companies or individuals would generally not be considered covered.

2 Is there no satisfactory alternative?

An assessment of alternatives needs to be provided. If there are any viable alternatives which would not have an impact on a European Protected species, they must be used in preference to the one that does. Derogations under the EC Habitats Directive (1992) are the last resort.

Where another alternative exists, any arguments that it is not satisfactory will need to be convincing. An alternative cannot be deemed unsatisfactory because it would cause greater inconvenience or compel a change in behaviour.

This test should identify a) the problem or specific situation that needs to be addressed, b) are there any other solutions, and c) will the alternative solutions resolve the problem or specific question in (a)?

3 Is the proposed activity ‘not detrimental to the maintenance of the populations of the species concerned at a favourable conservation status in their natural range’?

Assessment of the impact of a specific development will normally have to be at a local level (e.g. site or population) in order to be meaningful in the specific context.

Two things have to be distinguished in this test: a) the actual conservation status of the species at both a biogeographic and a (local) population level; b) what the impact of the proposal would be.

In such cases where the conservation status is different at the different levels assessed, the situation at the local population level should be considered first, although ultimately both should be addressed.

No derogation under the EC Habitats Directive (1992) can be granted if it has a detrimental effect on the conservation status or the attainment of favourable conservation status for a species at all levels. The net result of a derogation should be neutral or positive for a species.

In the case of destruction of a breeding site or resting place it is easier to justify derogation if sufficient compensatory measures offset the impact and if the impact and the effectiveness of compensation measures are closely monitored to ensure that any risk for a species is detected. Compensation measures do not replace or marginalise any of the three tests, all three tests must still be satisfied.