

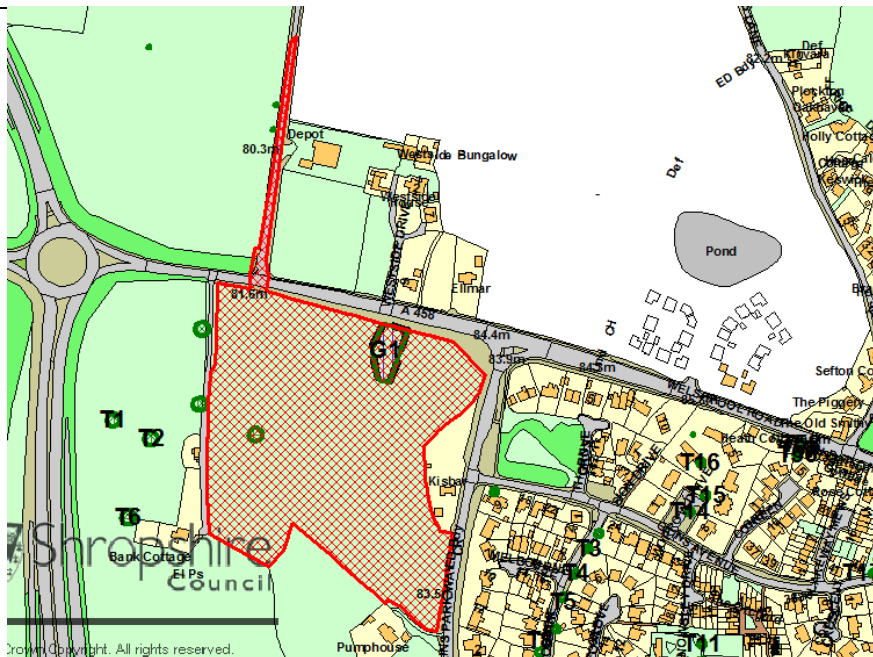
Development Management Report

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

Summary of Application

<u>Application Number:</u> 22/03543/FUL	<u>Parish:</u>	Bicton
<u>Proposal:</u> Mixed residential development of 106 dwellings and associated public open space, internal highways, car parking, garages and landscaping with vehicular access from Gains Park Way.(Amended Description)		
<u>Site Address:</u> Proposed Residential Development Land to The South of Welshpool Road Bicton Heath Shrewsbury Shropshire		
<u>Applicant:</u> Anwyl Homes		
<u>Case Officer:</u> Philip Mullineux	<u>email:</u> philip.mullineux@shropshire.gov.uk	

Grid Ref: 344993 - 313382



Recommendation: Approval subject to the conditions as outlined in appendix one attached to the report and any amendments to these conditions as considered necessary by the Assistant Director and the signing of a Section 106 agreement in order to secure provision of affordable housing, on site open space provision and a financial contribution towards the Northwest Relief Road.

REPORT

1.0 THE PROPOSAL

- 1.1 The application is made in 'Full' and proposes a mixed residential development of 106 dwellings and associated public open space, internal highways, car parking, garages and landscaping with vehicular access from Gains Park Way, south of Welshpool Road, Bicton Heath, Shrewsbury.
- 1.2 The application is accompanied by a site location plan, block plan, elevations and floor plans, design and access statement, planning statement, phasing plan, affordable housing layout, boundary treatment plan, site layout plan, landscaping plan, hard and soft landscaping plans, construction materials plan, arboricultural assessment, root investigation study, ecology and bat report, landscape and visual assessment, transport assessment, noise impact assessment, wildlife enhancement scheme, construction management scheme, air quality assessment, drainage strategy flood risk assessment and draft Section 106 agreement. During the application processing amended plans and further information was received which reduced the 'Cheltenham' housing range numbers (2.5 storey), in favour of more two-storey dwellings and this also resulted in an amended application form increasing total houses on site from 102 to 106 dwellings to which a full re-consultation took place.
- 1.3 Pre-application advice took place with the Council reference: PREAPP/21/00594 dated 19th January 2022 for residential development comprising of up to 120 dwellings including a range of 2, 3 and 4 bed-dwellings, with associated access from Welshpool Road, landscaping and open space and this concluded that the site is included in the current local plan for housing development as one of two sustainable urban extensions (SUE) for Shrewsbury, in this case the Shrewsbury West SUE. The parcel of land is identified within the SAMDev S16.1, figure S16.1.2 and within the adopted master plan as an area for residential development. and as such the principle of the development is considered acceptable.

2.0 SITE LOCATION/DESCRIPTION

- 2.1 The application site is located within the western fringes of the urban area of Shrewsbury and covers an area of approx. 4.6 hectare, grade 4 agricultural classification land. The site is located adjacent to existing residential development to the east with Gains Park Way running along the eastern boundary of the site. To the west and south the site is currently bounded by open agricultural land. Welshpool Road is located alongside the northern boundary, and on opposite side of this road is a residential area that also forms part of the wider SUE West and is presently under construction for residential development. The boundaries around the edge of the site are defined by hedgerows and mature trees. A number of mature trees are also present within the site.

2.2 The application proposes 106 dwellings consisting of 85 unencumbered dwellings and 21 affordable dwellings (mainly two-storey), in accordance with the following bedroom breakdowns:

Unencumbered:

- 2 beds -10
- 3 beds - 34
- 4 beds - 41
- Total - 85

Affordable dwellings (20%).

- 1 bed - 8
- 2 beds - 8
- 3 beds - 5
- Total -21

2.3 The application is not considered to fall into the remit of Environmental Impact Assessment Regulations 2017 when assessed against either schedule one or two description developments and applicable thresholds and criteria.

3.0 REASON FOR COMMITTEE DETERMINATION OF APPLICATION

3.1 The application is presented to Committee in consideration of comments made by Bicton Parish Council, who have raised material considerations in objection to the proposed development.

4.0 Community Representations

4.1 **Bicton Parish Council** has responded indicating:

Bicton Parish Council (BPC) objects to this application.

1, The drainage will ultimately flow through Bicton village down drains which are proven to be inadequate for present needs. The applicant states that run-off will be no more than the present agricultural run-off but how can this be so when there will be much more hard surface and less opportunity for soak away to occur. There will be attenuation ponds but a substantial (not even an extreme) weather event has been shown to over-top such ponds as these. Also there is the cumulative effect of the entire SWSUE of 750 houses with the drainage expected to go down these same already inadequate drains.

A full drainage report for the SWSUE and Bicton should have been commissioned before any SWSUE approval was given but it is not too late now for Shropshire Council to commission such a report preferably by independent experts.

2, BPC commissioned a parish wide housing survey which showed a demand for bungalows. There are no bungalows in these proposals.

3, The car parking arrangements are insufficient. A BPC survey showed that there are 2.6.cars for every house plus a need for visitor parking. There will inevitably be on road parking which will cause difficulty for service and emergency vehicles.

4, The applicant intends to install gas boilers; this is not sustainable and after all this is Shrewsbury West Sustainable Urban Extension! To meet today's concerns heat pumps and solar panels should be included.

5, The play areas must be secure for all ages of children.

6, Fences and hedges must be wildlife friendly.

7, The extra flow of traffic on to Gains Park Way and thence on to the Welshpool

Road and Churncote Island will cause problems on this already congested area. 8, BPC accepts that the SWSUE is an adopted plan but at least it should live up to its name and be SUSTAINABLE.

4.2 **Consultee Comment**

4.3 **National Highways** have responded indicating no objections:

National Highways has been appointed by the Secretary of State for Transport as a strategic highway company under the provisions of the Infrastructure Act 2015 and is the highway authority, traffic authority and street authority for the Strategic Road Network (SRN). The SRN is a critical national asset and as such, we work to ensure that it operates and is managed in the public interest, both in respect of current activities and needs as well as in providing effective stewardship of its long-term operation and integrity.

This response represents our formal recommendations with regard to 22/03543/FUL and has been prepared by Russell Gray.

The closest point of impact from the proposed development on the SRN in the area is the A5 / A458 Churncote roundabout, located approximately 120m to the west of the development site. We note that the development site constitutes the southwestern parcel of land within the Shrewsbury West Sustainable Urban Extension (SUE) comprising of up to 750 units and allocated within the Adopted Core Strategy and Site Allocations and Management Development (SAMDev) Plan (2015). National Highways was previously consulted during the pre-application stage where we noted that the development was not likely to have a material impact on the SRN in the area. Based on our review of the information submitted in support of the formal planning application, we note that the quantum of the development has now been reduced to 102 dwellings when compared with the pre-application consultation for 108 dwellings. As such, our previous view remains the same that the development is unlikely to have a material impact on the SRN in the area. In light of the above, National Highways offers no objections to this planning application.

4.4 **SC Archaeology Manager** has responded indicating:

Background to Recommendation:

The proposed development site comprises a c.4.2ha area of agricultural land on the western edge of Shrewsbury, which is allocated for residential development as part of the Shrewsbury West Sustainable Urban Extension in the SAMDev component of the Local Plan.

At present the Shropshire Historic Environment Record (HER) contains no record of any archaeological features on the proposed development site. The Tithe Award Map and Historic Editions of the Ordnance Survey indicate that the current single field was previously subdivided into a number of small closes, one of which, next the lane leading to Bank Cottage, also contained a small outbuilding at the beginning of the 20th century. Given the size of the proposed development site it is considered that there is also some potential for currently unknown archaeological features and deposits to be present.

RECOMMENDATION:

The application is accompanied by a Geophysical Survey Report by Magnitude Surveys and a Heritage Note by RPS. These supplement a the Desk Based Heritage Assessment by RPS Group dated February 2013 for the wider Shrewsbury West SUE and taken together these documents are considered to satisfy the requirements of Policy MD13 of the Local Plan and Paragraph 194 of the NPPF. The geophysical results indicate that no anomalies that are likely to represent any significant archaeological remains are present on the proposed development site. Taking account of both this and the results obtained from the geophysical survey and trial trenching along the corridor of the NWRR (Oxon Link Road section) to the north, officers concur with the conclusion that is drawn in the RPS Heritage Note that no further archaeological mitigation is required.

4.5 SC Drainage have responded indicating:

The submitted drainage strategy and details are acceptable.

An earlier response indicated:

1. The Draft FRA is generally acceptable although some sections appear to be missing together with the appendices.

2. Whilst the surface water drainage strategy is generally acceptable, in order to fully satisfy the LLFA's requirements, reference should be made to Shropshire Council's SuDS Handbook to develop the design. Guidance can be found on the website at <https://shropshire.gov.uk/drainage-and-flooding/development-responsibility-and-maintenance/sustainable-drainage-systems-handbook/>

The Appendix A1 - Surface Water Drainage Proforma for Major Developments must also be completed and submitted with the application.

4.6 SC Conservation Manager has responded indicating:

Further to our comments provided at the Pre-application stage, a Heritage Note has been prepared as part of this formal application where this is acknowledged, and no additional comments are offered on this application on built historic environment matters.

4.7 **SC Environmental Protection Manager** has responded indicating:
I would recommend that if permission is granted that the following condition is included. The noise mitigation measures as recommended in section 6.1 and 6.2 of the E3P acoustics report ref: 50-501-R1-2 shall be implemented in full Land Contamination A report by Coopers (Chester) Ltd; Site Investigation and Build Phase Remediation Strategy Report for Land at Welshpool Road, Shrewsbury; for Anwyl Homes; Ref. 7867siRevA, 5th July 2022 has been submitted in support of this planning application. A previous site investigation has been referenced that was undertaken by Crossfield Consulting Ltd on behalf of the vendor; 'Site investigation report. Land off Welshpool Road, Shrewsbury, Report Reference No. CCL03437.CN56, dated June 2021'. Environmental Protection requests a copy of this report as information has been used within the Cooper (Chester Ltd) Report and we need to review all relevant information before making comments in respect of land contamination. Please consult Environmental Protection again when this report has been made available

4.8 **SC Regulatory Services** in relation to land contamination have responded indicating:

The following two reports have been submitted in support of this planning application:

Coopers (Chester) Ltd; Site Investigation and Build Phase Remediation Strategy Report for Land at Welshpool Road, Shrewsbury; for Anwyl Homes; Ref. 7867siRevA, 5th July 2022;

Crossfield Consulting; Mosaic Group; Land off Welshpool Road, Shrewsbury, SY3 8HA; Site Investigation Report; Report No. CCL03437.CN56, June 2021.

The only potential risk identified arises from ground gas (peat deposits) and remediation proposals and verification are detailed within the Coopers Ltd Report (Section 22 ' Earthworks and Build Phase Remediation and Verification Requirements).

Accordingly, if planning permission is granted, the following must be included as Conditions:

1. The works detailed as being necessary to make safe the contamination shall be carried out in accordance with the approved Remediation Strategy within Section 22 of the Coopers (Chester) Ltd; Site Investigation and Build Phase Remediation Strategy Report for Land at Welshpool Road, Shrewsbury; for Anwyl Homes; Ref. 7867siRevA, 5th July 2022.

2. In the event that further contamination is found at any time when carrying out the approved development that was not previously identified it must be reported in writing immediately to the Local Planning Authority. An investigation and risk assessment must be undertaken in accordance with current Environment Agency guidance ' Land Contamination: Risk Management (LCRM) and must be submitted to and approved in writing by the Local Planning Authority. Where remediation is necessary a remediation scheme must be prepared which must ensure that the site will not qualify as contaminated land under Part 2A of the Environmental Protection

Act 1990 in relation to the intended use of the land after remediation. The remediation proposal is subject to the approval in writing by the Local Planning Authority.

3. Following completion of measures identified in the approved remediation scheme a Verification Report shall be submitted to and approved in writing by the Local Planning Authority that demonstrates the contamination identified has been made safe, and the land no longer qualifies as contaminated land under Part 2A of the Environmental Protection Act 1990 in relation to the intended use of the land.

Reason: To ensure that risks from land contamination to the future users of the land and neighbouring land are minimised, together with those to controlled waters, property and ecological systems, and to ensure that the development can be carried out safely without unacceptable risks to human health and offsite receptors.

Information on how to comply with conditions and what is expected of developers can be found in the Shropshire Councils Contaminated Land Strategy 2013 in Appendix 5. The following link takes you to this document:
<http://shropshire.gov.uk/committeeservices/Data/Council/20130926/Agenda/18%20Contaminated%20Land%20Strategy%20-%20Appendix.pdf>

4.9 **SC Ecology** have responded indicating:

Conditions and informatives have been recommended to ensure the protection of wildlife and to provide ecological enhancements under NPPF, MD12 and CS17.

I have provided a European Protected Species 3 tests matrix for great crested newts at the end of this response. The planning officer needs to complete sections 1 and 2, 'over riding public interest' and 'no satisfactory alternative.' The matrix must be included in the planning officer's report for the planning application and must be discussed/minuted at any committee at which the application is considered. The matrices provide guidance on completing sections 1 and 2 but please get in touch if additional assistance is required.

I have read the submitted Ecological Assessment (Star Ecology, November 2021), The Bat Survey report (ecus, June 2022), The Biodiversity Net Gain Assessment (ecus, November 2022) and the Great Crested Newt District Level Licensing IACPC.

Great crested newts

There are seven ponds within 500m of the proposed development red line boundary. Star Ecology (November 2021) carried out a Habitat Suitability Index assessment and calculated the ponds to be unlikely to support great crested newts or to be separated from site by significant barriers, such as the A438 and A5.

A Great Crested Newt District Level Licensing Impact Assessment & Conservation Payment Certificate (Enquiry no. DLL-ENQ-SHRP-00043) has been submitted which confirms that the project is eligible to enter the District Level Licensing scheme and that the developer intends to do so. The IACPC covers planning application 22/03543/FUL.

With the submission of the IACPC, and provided that works are carried out under the District Level Licensing scheme, SC Ecology are satisfied that the impacts of the development on GCN are capable of being fully addressed in a manner which complies with the requirements of the Habitats Regulations. As stated in the IACPC, 'In signing this Certificate Natural England has considered the matters it believes to be necessary to satisfy regulation 55 (9) (b) of the 2017 Regulations ("that the action authorized will not be detrimental to the maintenance of the population of the species concerned at a favourable conservation status in their natural range") and has concluded that the payment by the Applicant of the Conservation Payment will suffice to allow the impacts on great crested newts of the Applicant's proposals on the Site to be adequately compensated, and therefore that these proposals will not be detrimental to the maintenance of the population of great crested newts at a favourable conservation status in their natural range.'

Bats

The Ecological Assessment carried out by Star Ecology (November 2021) identified seven trees with potential roosting features. These were then surveyed between May and June 2022 ecus (Bat Survey Report, ecus, June 2022) and no roosting activity was recorded. In the event a bat is found during works, works must stop and NE or a licensed ecologist must be contacted for advice on how to proceed.

I have provided a European Protected Species 3 tests matrix at the end of this response. The planning officer needs to complete sections 1 and 2, 'over riding public interest' and 'no satisfactory alternative.' The EPS 3 tests matrix must be included in the planning officer's report for the planning application and discussed/minuted at any committee at which the application is considered. The form provides guidance on completing sections 1 and 2 but please get in touch if additional assistance is required.

Conditions and informatives

The following conditions and informatives are recommended for inclusion on the decision notice:

District Level Licence condition for GCNs

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

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

Biodiversity Net Gain – on-site provision

Before any construction works hereby approved are commenced, a Construction Environment Management Plan (CEMP), detailing, in full, the measures to protect existing habitat during construction works and shall be submitted to and approved in writing by the Local Planning Authority. Prior to first occupation / use of the

buildings, a Habitat Management Plan (HMP) expanding upon the information provided within the Biodiversity Metric, Landscape Plan and Ecological Appraisal documents detailing, in full, the formation of new habitat, to secure a habitat compensation value of no less than 0.50 (+5.97%) Biodiversity Units, shall be submitted to and approved in writing by the Local Planning Authority. Within the CEMP/HMP document the following information shall be provided:

- i) Current soil conditions of any areas designated for habitat creation and detailing of what conditioning must occur to the soil prior to the commencement of habitat creation works (for example, lowering of soil pH via application of elemental sulphur);
- ii) Descriptions and mapping of all exclusion zones (both vehicular and for storage of materials) to be enforced during construction to avoid any unnecessary soil compaction on area to be utilised for habitat creation;
- iii) Details of species composition and abundance (%age within seed mix etc.) where planting is to occur;
- iv) Proposed management prescriptions for all habitats for a period of no less than 25 years;
- v) Assurances of achievability;
- vi) Timetable of delivery for all habitats; and
- vii) A timetable of future ecological monitoring to ensure that all habitats achieve their proposed management condition as well as description of a feedback mechanism by which the management prescriptions can be amended should the monitoring deem it necessary.

The development shall thereafter be undertaken in accordance with the approved CEMP/HMP.

Reason: To protect and enhance features of recognised nature conservation importance, in accordance with MD12, CS17 and section 180 of the NPPF.

Working in accordance with method statement condition

All works to the site shall occur strictly in accordance with the mitigation and enhancement measures regarding bats, birds, badgers and hedgehogs as provided in *Section 8* of the Ecological Assessment (Star Ecology, November 2021).

Reason: To ensure the protection of and enhancements for bats, which are European Protected Species and birds which are protected under Section 1 of the 1981 Wildlife and Countryside Act (as amended) and badgers which are protected under the Protection Of Badgers Act, 1992.

Nesting birds informative

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

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

All vegetation clearance, tree removal, scrub removal (or other suitable nesting habitat) should be carried out outside of the bird nesting season which runs from March to August inclusive.

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

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

General site informative for wildlife protection

Great crested newts are protected under the Habitats Directive 1992, The Conservation of Habitats and Species Regulations 2017 and the Wildlife and Countryside Act 1981 (as amended).

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

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

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

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

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

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

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

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

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

4.10 **SC Trees have responded indicating:**

I have reviewed the additional information provided in respect of the root investigation for the veteran trees and would conclude that this demonstrates that the proposed development can be undertaken without significant harm to the trees identified, providing the trees are protected in accordance with the recommendations of the Arboricultural Impact Assessment as amended. I would therefore withdraw my objection to the proposal. The following conditions are recommended should planning permission be granted.

a) No works associated with the development permitted will commence and no equipment, machinery or materials will be brought onto the site for the purposes of said development until all tree protection measures specified in the submitted Tree Protection Plan and Arboricultural Method Statements have been fully implemented on site and the Local Planning Authority have been notified of this and given written confirmation that they are acceptable. All approved tree protection measures must be followed and maintained throughout the development until all equipment, machinery and surplus materials have been removed from the site. Nothing shall be stored or placed in any area fenced in accordance with this condition and the ground levels within those areas shall not be altered nor any excavation be made, without the prior written consent of the Local Planning Authority. A responsible person will be appointed for day to day supervision of the site and to ensure that the tree protection measures are fully complied with. The Local Planning Authority will be informed of the identity of said person.

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

The proposed landscaping scheme will be implemented prior to the occupation of any dwelling approved under this planning consent.

a) Landscaping to be implemented in accordance with the approved general layout plans and schedule.

b) Landscaping to be maintained for a period of 5 years or until the trees are established and independent in the landscape if this is longer. All trees that fail or become diseased, damaged or moribund are to be replaced within the next planting season.

Reason: To ensure the landscape planting can establish and become independent in the landscape in the long term and will contribute towards the appearance of the development and the amenity of the wider area

An earlier response indicated:

Documents Referenced: Site Layout, Arboricultural Assessment, Landscaping Plans, Arboricultural Response

Site Visit: Yes. Tree Locations Verified: Yes. Constraints: TPO, Vet Trees

Notes:

Recommend: Refusal: Proposed development has potential to cause significant harm to high value veteran trees protected by a Tree Preservation Order and therefore is contrary to the principles of sustainable development, National Planning Policy Framework and the Shropshire Local Development Framework; adopted core strategy policies CS6 & CS17 and policies MD2 & MD12 of the adopted SAMDev plan.

Further to my previous comments the Arboricultural impact assessment has been updated to include the two oak trees on land to the west of the site of the proposed development. It is noted that the two oak trees have been given category B status, mean that the author considers that they are of moderate amenity and retention value. I would strongly dispute this. Both trees are prominent and significant in the landscape, they are large, mature, long-lived trees, that have been independently assessed as being veteran trees using the Veteran Tree Specialist Survey Method and are on the ancient tree register as verified veteran trees, clearly these are category A trees of the highest value.

As veteran trees are not just highly valuable, irreplaceable assets, because of their age and condition they are also more vulnerable to development damage than a younger tree would be. This requires that precautionary approach is taken to the protection of veteran trees on development sites, including the use of a larger Root Protection Area extending to 15 x stem diameter and uncapped. There should also be no construction, siting of utilities or formation of new hard surfaces within the RPA.

Under the current site layout there are structures located within the RPAs of the

trees and the justification given, altering the shape of the RPA based on soil and ground conditions, is based on the use of a 12 x stem diameter AIA and without consideration to the enhanced tree protection requirements of a veteran tree.

Therefore it is considered that the proposed development has potential to cause significant harm to high value veteran trees protected by a Tree Preservation Order and therefore is contrary to the principles of sustainable development, National Planning Policy Framework and the Shropshire Local Development Framework; adopted core strategy policies CS6 & CS17 and policies MD2 & MD12 of the adopted SAMDev plan.

An earlier response indicated

There are a number of trees on and adjacent to this site and an Arboricultural Impact Assessment has been submitted with the application to demonstrate the impact of the development on existing trees, hedges and shrubs and to justify and mitigate any losses that may occur.

The AIA has identified 31 individual trees, 3 groups of trees and 6 hedgerows which have been assessed in accordance with BS 5837 (2012) and includes a categorisation of the trees based on their current and potential public amenity value. This categorisation forms the basis for how much weight should be put on the loss of a particular tree and helps to inform the site layout and design process. I have reviewed the categories allocated to the trees and would agree that, in most cases these are appropriate, the exception being trees T16 – T19, which are category B & C, presumably based on their condition and life expectancy, in my assessment these trees form a visual and aerodynamic group and it is not unreasonable to consider that the life expectancy of the group would exceed 40 years and thus could be considered a category 'A' group. Also, T31, this is a very prominent tree and again, on the information available, could reasonably be expected to have a life expectancy in excess of 40 years.

Of some concern is the fact that two veteran oak trees on adjacent land are not included in the AIA assessment. There is a note on the Tree Constraints Plan that states that the presence of the access track to Bank Cottage, between the tree and the site, and the boundary hedgerow would limit root growth into the site. Whilst it would be reasonable to consider that these features would provide some level of constraint to root development, it would be very unlikely that they would act as a complete barrier. The access track, although well-established, is not substantial or well-used by heavy traffic and as such any compaction may well be limited to the upper layers of the soil. Oak trees have the capacity to root deeply in heavy soils and, given the age of the trees, it is probable that they have rooted beneath the track and are exploiting soils in the adjacent field. The protection needs of these trees, which are identified and recorded as veteran trees, must be assessed and taken into account. As it stands, it would appear that the proposed construction along the west boundary of the site would encroach into the RPA / Veteran Tree Buffer Zone and therefore negatively impact these trees.

The AIA notes that, to facilitate the proposed development, two trees and a section of hedgerow would be removed and two additional trees are recommended for

removal based on their condition. The two trees removed are category B and the hedgerow is category A. The AIA considers that the losses can be compensated for through new planting as part of the development.

There are a number of large well-established trees in the wider area surrounding the site and it is considered that the loss of trees and hedgerow will not significantly impact the character or amenity of the wider area.

In addition to the loss of trees there is also some minor encroachment into the RPAs of trees T25 – T29 to allow for construction and the RPAs have been off-set to allow this. I have reviewed the proposal and consider the offsetting reasonable subject to identified control measures being implemented.

The AIA notes that tree loss will be mitigated through new planting as part of the site development. A landscape strategy plan has been prepared that provides for the planting of new trees and the improvement of existing arboricultural assets. The level of planting proposed appears reasonable. A full landscape scheme, based on the strategy and should be provided by way of condition.

No objection is raised in principle to the proposed development but this is subject to the assessment of the tree protection requirements for off-site veteran trees and amendments to the site layout to accommodate the protection of the aforementioned trees. As it stands, this iteration of the site layout puts very valuable trees at high risk of harm, which would have a substantial negative impact on these trees and the wider amenity and would be contrary principals of sustainable development outlined in the NPPF and the Shropshire Local Development Framework; adopted core strategy policies CS6 & CS17 and policies MD2 & MD12 of the adopted SAMDev plan

4.11 **SC Highways** have responded with the following advice:

The current application has been the subject of preapp discussions with the applicant and agents which included the access strategy and layout of the site. It is considered that the submitted access and internal estate road infrastructure accords with the discussions held and that the design layout is suitable for future adoption and that the site access into onto Gains Park Way provides adequate visibility sight lines at and in excess of 40 mph criteria, which is the current speed limit of Gains Park Way. On this specific point, concerns have been raised regarding the speed limit being reduced to 30 mph. As part of the access assessment, speed readings were undertaken that demonstrated that vehicle speeds approaching the access from both directions are below the current speed limit. Whilst is considered that there is merit in further assessing the reduction of the current speed limit, this is considered outside the scope of this development proposal and potentially taken forward via CIL as an option.

As part of the development proposals, a pedestrian refuge is shown to be provided on Welshpool Road to improve pedestrian connectivity between the development and the northern side of Welshpool Road. This is a welcome feature in providing wider benefits to pedestrian movement in the locality.

Overall it is considered that the development scheme is acceptable and there are no

grounds to object to this development from a highway or transportation perspective.

- The construction of any new estate street shall not be commenced until full engineering, drainage, street lighting and constructional details of the streets proposed for adoption have been submitted to and approved in writing by the local planning authority. The development shall, thereafter, be constructed in accordance with the approved details. **Reason:** - In the interest of highway safety; to ensure a satisfactory appearance to the highways infrastructure serving the approved development; and to safeguard the visual amenities of the locality and users of the highway.
- The construction of any new estate street shall not be commenced until an estate street phasing and completion plan has been submitted to and approved in writing by the local planning authority. The estate street phasing and completion plan shall set out the development phases and the standards that estate streets serving each phase of the development will be completed. **Reason:** - To ensure that the estate streets serving the development are completed and thereafter maintained to an acceptable standard in the interest of residential / highway safety; to ensure a satisfactory appearance to the highways infrastructure serving the development; and to safeguard the visual amenities of the locality and users of the highway.
- Prior to the development hereby permitted being first occupied the Welshpool Road pedestrian crossing shall be fully implemented in accordance with engineering details to be first submitted to and approved in writing by the Local Planning Authority. **Reason:** In the interests of pedestrian safety and provide improved pedestrian connectivity across Welshpool Road.
- Prior to the development hereby permitted being first occupied, a Travel Plan (TP) shall be submitted to and approved in writing by the Local Planning Authority; the TP shall be implemented fully in accordance with the approved details and shall remain in force for the lifetime of the development. **Reason:** To promote sustainable travel and in the interests of reducing carbon emissions.
- The development shall be implemented in accordance with the approved Construction Management Plan and shall remain in force for the duration of the construction period. Reason: In the interests of highway safety and local amenity.

4.12 **SC Housing** have responded indicating:

The proposed development relates to the provision of 106 dwellings. The application site falls within an area where both the current and proposed (emerging plan) prevailing target rate is 20%. The policy requirement for this site is 21.2 (21 dwellings and a financial contribution for the remaining fraction).

The mix, tenure and distribution of the affordable housing is acceptable. It is particularly pleasing to see an imaginative proposal for a 1 bed dwelling. The size of these one bed homes either meets or exceeds Nationally Described Space

Standards (NDSS). The two bed affordable dwellings also meet space standards for a 3-person household. The only negative aspect to the proposal relates to the size of the 3 bed dwellings, which at 80.52 sq. metres falls short of the minimum of 84 sq. metres for a 4-person household. Emerging policy relating to the provision of affordable homes is that they should meet NDSS. Can further consideration be applied to increasing the size of the 3 bed dwellings.

4.13 **Public Comments**

4.14 One letter of objection has been received from members of the public. Key planning related issues raised can be summarised as follows:

- Outdated design
- Poor roof pitches
- Concerns about grey and roof water storage
- Prime agricultural land which would be better put to higher density development.
- Poor landscaping and tree planting.
- Will exacerbate flooding.
- Inadequate health care facilities to cater for additional population as a result of the development.

5.0 **THE MAIN ISSUES**

- Principle of development
- Siting, scale and design of the development
- Visual impact and landscaping
- Highways and transportation
- Drainage
- Ecology
- Residential amenity and privacy
- Section 106 contributions.

6.0 **OFFICER APPRAISAL**

6.1 **Principle of development**

6.11 Planning law requires that applications for planning permission must be determined in accordance with the development plan, unless material considerations indicate otherwise.

6.1.2 The granting of the outline planning consent for the wider site of the SUE West and the accompanying master plan that indicated the application site under discussion, as a future housing phase development site, (ref: 14/00246/OUT), accepted the principle of residential development on site.

6.1.3 The application site forms part of the Shrewsbury West Sustainable Urban Extension (SUE), which is identified in the Council's adopted Core Strategy as a strategic location for development as part of the Shrewsbury Development Strategy (Policy CS2). The SUE is also identified in the Site Allocations and Management of Development (SAMDev) Plan SAMDev Plan Policy S16.1 and related Schedule S16.1a (Allocated Housing Sites).

6.1.4 Schedule S16.1b (Allocated Employment Sites), and Figure S16.1.2 (Shrewsbury)

West SUE Land Use Plan) provide further policy guidance. In addition, the Council adopted a Master Plan to guide the development of the SUE (adopted by Council on 19th December 2013). The application site forms a phase of the development of the SUE. This Plan set out a strategy for 750 homes by 2026 delivered in 3 specific parcels of land, to which this site forms one of them, as part of the Shrewsbury West Sustainable Urban Extension area, and thus the proposal is in line with adopted Core Strategy Policy CS2, and SAMDev Plan Policy S16.1 and the adopted SUE Master Plan, all of which seek the delivery of comprehensively planned and integrated development, including housing, employment land, and appropriate infrastructure provision/contributions. The location of the area proposed for housing, as well as the business uses and public open space, and the provisions made with regard to land for, and contribution to the cost of, the planned Link Road (between the Churncote Island on the A5 to the Holyhead Road) accord with the Council's policies.

- 6.1.5 Whilst objections in relation to the application and overall 'sustainability issues' are noted from Bicton Parish Council and a member of the public, issues raised have been considered, including in respect of infrastructure, to which the Community Infrastructure Levy, (CIL), payments will cover, and Building Regulations is the regime that will cover sustainable building requirements. It is also noted in relation to transportation and drainage issues that neither SC Highways, National Highways or SC Drainage raise any objections on these aspects. Whilst it is considered disappointing that there are no single-storey dwellings proposed as part of the overall development, the applicants have amended the plans reducing the amount of 2.5 storey dwellings to a range of dwellings in scale and size considered acceptable in relation to the site, its topography and setting within the surrounding landscape. On balance the principle of the development is considered acceptable subject to matters as discussed below.
- 6.1.6 As referred to in paragraph 2.3 above the application made in 'Full' is not considered to be in need of an Environmental Statement in accordance with Environmental Impact Assessment Regulations 2017, as it does not meet with any EIA Criteria. Biodiversity impacts and net gain, along with consideration to landscape, visual and historic character impacts, archaeology, surface and foul water drainage, highway impacts and amenity can be addressed via subject specific surveys/ reports where considered necessary without the need for an environmental statement. With adequate consideration to these aspects, the Council has not carried out a scoping exercise.
- 6.2 **Siting, scale and design.**
- 6.2.1 Section 12: Achieving well-designed places of the NPPF advocates optimising the potential of the site to accommodate development, create and sustain an appropriate mix of uses (including incorporation of green and other public space as part of developments) and support local facilities and transport networks. The NPPF seeks to improve and enhance places where people live. This national policy is reinforced and expressed locally in Core Strategy Policy CS6 and SAMDev Policy MD2
- 6.2.2 The proposal is for a total of 106 dwellings with associated highway infrastructure, landscaping and open space. The submission includes a total of 21 affordable dwelling representing 20% of the total number of dwellings on site. (The affordable contribution also includes a financial payment of £18,000). The application proposes houses that are mainly semi-detached and detached with some terraced. The

dwellings are predominately 2 storey with a few 2.5 storey. Information in support of the applicants' submission indicates that the development is appropriate in its context and within Shrewsbury Masterplan. Development of the site will contribute to achieving the following aims:

- Will result in a well-planned development, with the residential development echoing the vernacular of the surrounding area so that it will be easily absorbed into its immediate context.
- Has been designed to function well and has considered the opportunities available for maintaining the character and quality of the area.
- Helps address the needs for local housing, making them accessible, usable and easy to navigate.
- Will be visually attractive as a result of the mix of good architecture, urban design and landscaping.
- Will propose a development that will work in harmony with Shrewsbury Master plan in terms of context, movement and density.

6.2.3 The final layout of the proposed development is set out below and this includes provision of an attenuation pond and usable open space. Oak trees that are a feature to the site. To the north of this is the proposed childrens' play area and green connectivity to the drainage attenuation ponds and natural vegetation in relation to this.

6.2.4 GAINS PARK WAY, SHREWSBURY



6.2.5 The development is proposed to create its own identity, respecting the character of its surroundings. The development will produce variety within the development establishing a strong identity whilst also demonstrating a common design theme which is intended to integrate within the context of the surrounding area.

6.2.6 Vehicular access into the site is directly off Gains Park Way which leads onto

Welshpool Road, pedestrian linkages to the surrounding area are also provided and there will be no harm in relation to public rights of ways.

- 6.2.7 The design of the houses is mostly two-storey with some 2.5 storey houses making use of the roof space. (The Cheltenham range). The house types will demonstrate a cottage like vernacular including brick and render under tiled roofs. The palette of materials proposed will include a range of suitable brickwork and this includes reference to single storey single or double garages to some of the dwellings. Overall, this aspect of the development on balance considered acceptable.
- 6.2.8 The application meets the affordable housing requirement in that the provision of 21 affordable dwellings represents 20% of the proposed development of 106 dwellings. along with a financial contribution secured along with the housing via Section 106 agreement. The mix, tenure and distribution of the affordable housing is acceptable and most of the affordable dwellings meet the national space standards. Whilst it is disappointing that the size of the 3 bed dwellings, at 80.52 sq. metres falls short of the minimum of 84 sq. metres for a 4-person, on this occasion this is acceptable, as nationally recognised space standards are not currently adopted by the Council policy, although the Council encourages the provision of these standards in all proposed new development.
- 6.2.9 In relation to scale and design overall the proposed development is considered acceptable and is considered to be in accordance with the aims and aspirations of the SUE policy for this site and thus in accordance with Policies CS1, CS2, CS6, CS10, MD1, MD2, MD3 and S16 of the local plan and the overall aims and objectives of the NPPF in relation to sustainable development.
- 6.3 **Visual impact and landscaping.**
- 6.3.1 Policy CS6 'Sustainable Design and Development Principles' of the Shropshire Core Strategy encourages development that improves the sustainability of communities whilst requiring development to protect and conserve the natural, built and historic environment and be appropriate in scale, density, pattern and design taking into account the local context and character. The development should also safeguard residential and local amenity, and the achievement of local standards for the provision and quality of open space and ensure sustainable design and construction principles are incorporated within the new development.
- 6.3.2 In addition, SAMDev Policy MD2 Sustainable Design builds on Policy CS6 providing additional detail on how sustainable design will be achieved. To respond effectively to local character and distinctiveness, development should not have a detrimental impact on existing amenity value but respond appropriately to the context in which it is set.
- 6.3.3 Policy CS17 'Environmental Networks' states that development will identify, protect, enhance, expand and connect Shropshire's environmental assets and does not adversely affect the visual, heritage or recreational values and functions of these assets, their immediate surroundings or their connecting corridors. In addition, SAMDev Policy MD12: The Natural Environment builds on Policy CS17 providing development which appropriately conserves, enhances, connects, restores or recreates natural assets.
- 6.3.4 Also, SAMDev Policy MD13: The Historic Environment states that in accordance with Policies CS6 and CS17 and through applying the guidance in the Historic Environment SPD, Shropshire's heritage assets will be protected, conserved, sympathetically enhanced and restored. In relation to historic issues this application is considered acceptable.

- 6.3.5 The applicants have submitted in support of their application a landscape and visual impact appraisal and this summarises that the site is not the subject of any statutory landscape designation that indicates that it is part of a valued landscape as described within footnote 7 of the NPPF. In respect to landscape character, whilst there will be a change to the site from a field to a residential scheme, the implications of the proposed development are considered to be acceptable upon the published characteristics of the Estate Farmlands LCT and the character of the site itself since the characteristics which contribute positively to landscape character will be largely retained and enhanced within a strong landscape framework and sympathetic design that responds to its context. The Site has been analysed within this LVA to have a visual envelope largely restricted to short distance views towards the site, with long distance intervisibility to the Shropshire Hills Area of Outstanding Natural Beauty (AONB) located 7.1km south of the Site. Given the settlement edge context of the site and the urbanising influences of Welshpool Road and the active construction site to the north of Welshpool Road, it is considered that the changes associated with the development would not be wholly unexpected and would be viewed in the site's context. It is considered that the implications of the proposed development upon the views and visual amenity of people with short distance views towards the site are acceptable. Views from the AONB were scoped out of this appraisal due to distance. This LVA has analysed the implications of the proposed development on the landscape character and visual context and concludes that there are no unacceptable implications as a result. In addition, no adverse implications are expected upon parcels Bicton B, Bicton C and Shrewsbury A identified within the Shropshire Landscape & Visual Sensitivity Assessment (adopted 2018). On balance, having undertaken a high-level analysis of landscape and visual related policy compliance, this LVA finds that the proposals are in compliance with the landscape and visual relevant aspects of planning policy.
- 6.3.6 The application is also accompanied by a biodiversity net gain report and this indicates that other than the areas of the site associated with residential dwellings and highway infrastructure the post-development habitats within areas of Public open space, (POS) at the site will include an ecological area containing a wildlife pond and wildflower meadow; areas of amenity grassland and scattered urban trees and small areas of native scrub planting. Section of new hedgerows will also be incorporated into boundary treatments. Proposed habitats are presented within the site and their condition post-creation have been assigned based upon management prescriptions for the establishment and maintenance phases of each habitat as detailed within the Soft Landscaping Proposals the area-based habitats produced a habitat area net gain of +0.50 HU and a net percentage change of +5.97 %. Hedgerow linear habitat loss and subsequent replacement across the site results in a net gain of +1.82 HeU and net percentage change of +10.63%. Limitations in the sites potential to support an even higher percentage net gain for biodiversity within the site include the level of recreational POS required to be implemented; current mechanisms in place to allow for highways to be adopted (limiting the numbers and locations of proposed street trees) and the visual aesthetics of the development proposed. It is considered that the habitats proposed at the site and the gains in habitat value at the site are a good representation of what can be maximally achieved at the site due to current limitations
- 6.3.7 In more detail the application makes provision for three distinct landscaped amenity areas consisting of an attenuation basin and indication of an indicative ecology pond

on the north side alongside Welshpool Road, a 400 square metre 'LEAP' alongside Gains Park Way and a separate usable open amenity space area. All to be landscaped, making use of existing trees on site with additional tree planting as mitigation. All areas will have natural surveillance over them provided by the proposed housing on site by means of the site layout.

- 6.3.8 It is considered that landscaping on site is acceptable in relation to the layout and surrounding landscape character. It is considered that adequate landscaping of the site is essential in order to integrate the development into the surrounding landscape. Gains Park Way and its associated development to the east of the site is considered to have integrated well into its landscape. The proposal makes good use in its layout of existing mature trees on site with further tree planting as landscape enhancement along with native boundaries and further native and formal hedgerow planting. The addition of an ecological pond in support of biodiversity enhancement is welcomed. The proposed 'LEAP' is also welcomed and will help provide variety to the site. The Section 106 agreement will ensure provision of the open space on site and provision of the LEAP as part of the site's overall landscaping and also have regard to their long-term future.
- 6.3.9 Given the above in relation to landscape and overall visual impact, and open space provision, on balance and in relation to the overall material considerations of the circumstances, and with consideration to the objections on biodiversity issues raised, (members of the public and non-statutory consultees), it is considered by Officers, that the development is broadly in accordance with Policies CS6, CS17, MD2, MD12 and S16 of the local plan as well as the NPPF in relation to landscaping and visual impacts.
- 6.4 **Highways and Transportation**
- 6.4.1 The NPPF, at section 4, seeks to promote sustainable transport. At paragraph 32 it states that decisions should take account of whether safe and suitable access to the site can be achieved for all people and whether improvements can be undertaken within the transport network that cost effectively limit the significant impacts of the development. Development should only be prevented or refused on transport grounds where the residual cumulative impacts of development are severe.”
- 6.4.2 Core Strategy policy CS6 seeks to ensure that proposals likely to generate significant levels of traffic be located in accessible locations, where opportunities for walking, cycling and use of public transport can be maximised and the need for car based travel reduced.
- 6.4.3 Policy S16.1a of the Council's SAMDev refers to the Shrewsbury West Sustainable Urban Extension indicating that development will deliver comprehensively planned, integrated and phased development of the SUE having regard to the SUE land use plan and facilitation of the new improvement of the A5 Churncote Island along with sustainable transport measures.

- 6.4.5 The applicants have submitted a transport assessment, and this concludes that the residential development proposals would represent appropriate and sustainable development when considered in highways and transport terms. The application site is located within an established residential area and offers the potential to encourage access by alternative sustainable travel modes to the private car for many day-to-day journeys. It is considered that the application scheme would not give rise to a severe detrimental impact on local highway network operation – development traffic increases would not be significant, and operational effects on local highway network capacity would be limited. It is therefore considered that there are no overriding reasons for refusing the planning application on highways and transportation grounds.
- 6.4.6 National Highways in response to the application raises no objections in relation to the strategic highway network indicating that the closest point of impact from the proposed development on the SRN in the area is the A5 / A458 Churncote roundabout, located approximately 120 metres to the west of the development site. We note that the development site constitutes the southwestern parcel of land within the Shrewsbury West Sustainable Urban Extension (SUE) comprising of up to 750 units and allocated within the Adopted Core Strategy and Site Allocations and Management Development (SAMDev) Plan (2015). National Highways was previously consulted during the pre-application stage where we noted that the development was not likely to have a material impact on the SRN in the area. Based on our review of the information submitted in support of the formal planning application, we note that the quantum of the development has now been reduced to 106 (was 102), dwellings when compared with the pre-application consultation for 108 dwellings. As such, their previous view remains the same that the development is unlikely to have a material impact on the SRN in the area. It must be noted that the application includes a contribution towards the NWRR, and this is in accordance with the requirements of the master plan for the SUE West development area.
- 6.4.7 SC Highways have also raised no objections to the proposed development. The response indicating that the submitted access and internal estate road infrastructure accords with the pre-app discussions held and that the design layout is suitable for future adoption and that the site access onto Gains Park Way provides adequate visibility sight lines at and in excess of 40 mph criteria, which is the current speed limit of Gains Park Way. On this specific point, concerns have been raised regarding the speed limit being reduced to 30 mph. As part of the access assessment, speed readings were undertaken that demonstrated that vehicle speeds approaching the access from both directions are below the current speed limit, this is outside the scope of this development proposal and if necessary, should be potentially taken forward via CIL as an option. As part of the development proposals, a pedestrian refuge is shown to be provided on Welshpool Road to improve pedestrian connectivity between the development and the northern side of Welshpool Road. This is a welcome feature in providing wider benefits to pedestrian movement in the locality.
- 6.4.8 On Highways and Transportation matters in conclusion, with conditions attached as recommended by the SC Highways Manager as set out in paragraph 4.11 of this report overall, the application submission essentially meets with the aspirations in delivering the Shrewsbury West SUE allocation as approved by the Council in its adoption of the SAMDev.

6.4.9 On transportation, access and highway matters, the application is considered acceptable and based on information provided, it is considered that development as proposed can be considered a significant part of the aims in relation to part of a sustainable urban extension in accordance with relevant policy and the master plan in relation to this site. As such the development on transportation issues considered to be in accordance with local plan policies CS1, CS3, CS6, CS8, MD2, MD3 and S14 and the overall aims and objectives of the NPPF in relation to sustainable transportation.

6.5 **Drainage**

6.5.1 Core Strategy policy CS18 relates to sustainable water management and seeks to ensure that surface water will be managed in a sustainable and coordinated way, with the aim to achieve a reduction in the existing runoff rate and not result in an increase in runoff. The site is identified by the Environment Agency flood data map, as being fully located within Flood Zone 1. (Low risk of flooding). Such areas are assessed as having a less than 1 in 1,000 annual probability of river or sea flooding (<0.1%) in any one year. A flood risk assessment has been submitted with the application. This confirms that the proposed development on land off Welshpool Road, Shrewsbury has been assessed with regards to flood risk and that it is not considered that flooding poses a risk to the proposed residential development of the site subject to implementation of the recommended measures as outlined in the flood risk assessment.

6.5.2 Detail in support of the application indicates that highways, houses and associated hard surfaces will be served by a piped surface water system designed to adoptable standards to ensure, at minimum, no flooding up to the 1 in 30-year event and will be designed to overflow into a basin within the open space area. Overall flows up to the 1 in 100-year event plus allowance for 45% climate change and urban creep will be contained on site within the pipe system and basin supplemented by appropriate setting of levels. It is proposed that under the new Sewerage Sector Guidance the main piped system, control structure and outfall will be adopted by Severn Trent Water with the basin, if not adopted, to become the responsibility of the management company for the development. The risk to water quality from housing developments is categorised as low to very low. The incorporation of trapped gullies to roads and a silt trap within the piped system will nonetheless provide two levels of treatment. Levels will be set, and land drainage introduced to respond to site conditions during construction to facilitate the conveyance of any surface water runoff from higher ground safely through or around the development. In this regard it is noted that development will inherently reduce existing uncontrolled runoff from within the area of the site. More generally, floor levels will be set a minimum of 0.15m above external ground level and will encourage any flows generated by an exceedance event (i.e. greater than the 1 in 100 year plus climate change design event) to pass safely through the development. Formal land drainage consent will be required for the outfall to the watercourse network. It is therefore concluded that the development can be delivered in accordance with the NPPF so as not to be at risk of flooding from external sources or from within the development, and so as not to increase flood risk to the surrounding area.

6.5.3 SC Drainage Manager has responded indicating the submitted drainage strategy and details are acceptable.

6.5.4 Drainage matters are considered satisfactory and in accordance with policies CS6

and CS18 of the Shropshire Core Strategy and the NPPF

6.6 **Ecology**

6.6.1 The NPPF places high importance on protection of biodiversity interests and new development should minimise impacts on biodiversity. Planning permission should be refused where significant harm from a development cannot be avoided. It also places great weight on conserving and enhancing the natural environment. Core Strategy Policies CS6 and CS17 require development proposals to respect the natural environment of Shropshire and its biodiversity interests. Policy MD12 of the SAMDev, amongst other matters, encourages development which appropriately conserves, enhances, connects, restores or recreates natural assets, particularly where this improves the extent or value of those assets which are recognised as being in poor condition. Development should minimise impacts upon biodiversity and provide net gains in biodiversity wherever possible.

6.6.2 An ecological report accompanies the application, and its conclusions are considered acceptable. The application also accompanied by a bat survey and mitigation report great crested newt survey and mitigation and biodiversity enhancement report.

6.6.3 It is noted that the SC Ecologist raises no objections subject to conditions attached to any approval notice in relation to a district level licence, construction environmental management plan and works being carried out in accordance with a method statement on mitigation and enhancement measures. A European ecology matrix is attached as appendix 2 to this report.

6.6.4 In conclusion on ecological matters, the application is considered acceptable with conditions attached to any approval notice as discussed above and in accordance with Policies CS6 and CS17 of the Shropshire Core Strategy and MD2, MD12 and S16 of the SAMDev and the NPPF in relation to biodiversity issues

6.7 **Residential amenity and privacy**

6.7.1 Core Strategy policy CS6 requires that developments safeguard residential and local amenity. The applicants have submitted a noise assessment and impact assessment in relation to the proposal and these have been considered as part of the considerations in relation to the application. The noise assessment concluded that road traffic sound measurements were undertaken for Welshpool Road and the A5. They relied on third party data for the proposed commercial development to the west. A 3D noise model was constructed to assess road traffic and industrial/commercial sound impact. With regards road traffic sound, this was assessed in accordance with the criterion, for day and night, given in BS 8233:2014. Commercial sound is assessed in accordance with BS 4142:2014+A1:2019. The assessment recommended various barriers to control road traffic sound. Furthermore, whole dwelling ventilation has been recommended for all plots due to the impact of sound internally. With mitigation measures in place, this assessment has shown that no adverse impact is predicted day or night at the receptors due to transportation and/or commercial/industrial sound.

6.7.2 The assessment concludes that there will be no significant impacts in relation to the residential amenity of surrounding dwellings. The Council's Environmental Protection recommend that the noise mitigation measures as recommended in section 6.1 and 6.2 of the E3P acoustics report ref: 50-501-R1-2 to be implemented in full.

- 6.7.3 An air quality assessment submitted in support of the application is considered acceptable. Based on the assessment results, and report's findings and conclusions air quality factors are not considered a constraint to the development.
- 6.7.4 Officer have considered residential amenity and privacy in relation to all surrounding dwellings to the application site as well as in relation to dwellings that will form part of the residential development and have concluded that given the location of the site impacts on occupiers of these dwellings is acceptable. It is accepted that vehicular access onto Gains Park Way in relation to residential amenity issues is also acceptable.
- 6.7.5 As noted by the Council's Regulatory Services the applicants have considered potential on-site contamination issues with the submission of two reports on this matter. The conclusions are considered acceptable with conditions attached to any approval notice issued in respect of contamination on site being addressed and carried out in accordance with the remediation strategy and if any further contamination being identified on site being reported to the Council's Regulatory Services for further consideration.
- 6.7.6 Overall and with conditions attached to any approval notice as recommended by the Council's Regulatory Services the proposal on amenity issues, (and this includes consideration to external lighting), is considered acceptable and in accordance with Policy CS6 and the NPPF in relation to these matters.
- 6.8 **Section 106 contributions.**
- 6.8.1 Policy CS9 and CS11 of the Core Strategy seeks to secure provision of affordable housing either on the development site or, where appropriate, as an off-site financial contribution. The applicants have submitted in support of the application a draft Section 106 agreement to which the principle and contributions as indicated appear acceptable. The applicants have agreed to the provision of 20% affordable housing on site which equates to 21 dwellings and a financial contribution of £18,000 This will be delivered through the Section 106 planning obligation and the detail is considered acceptable by the Council's Housing Manager.
- 6.8.2 On site open space provision, delivery and management will also be subject to the Section 106 agreement.
- 6.8.3 Also in accordance with policy as set out in Policy S16:1a of the SAMDev and the master plan for the area known as SUE West, a financial contribution towards the NWRR also secured by the Section 106 agreement.
- 6.8.4 Shropshire Council has been involved in discussions with the applicant and other parties about the appropriate delivery and funding of infrastructure associated with this development. This will be funded by the development's CIL contributions and will be supplemented by on site delivery directly by the developer(s). It is considered that the contributions considered appropriate and necessary in relation to local infrastructure such as educational requirements are in line with the provisions of policies CS9 and CS11
- 6.8.5 The draft Section 106 is considered acceptable and in accordance with the recognised requirements in relation to Section 106 agreements. The application will also attract payment via The Community Infrastructure Levy, (CIL), towards local state schools' infrastructure, local road improvements of the residential development, based on the scale of the development built on site. This requirement complies with relevant planning policy and infrastructure requirements.

7.0 CONCLUSION

- 7.1 Section 38(6) of the Planning and Compulsory Purchase Act 2004 provides that where regard is to be had to the development plan for the purpose of any determination to be made under the Planning Acts, the determination must be made in accordance with the plan unless material considerations indicate otherwise.
- 7.2 The relevant local plan policies are set out below and the proposed scheme has been assessed against them. Other material planning considerations have also been considered in the assessment of the merits of the case. The proposed development forms part of the adopted master plan Shrewsbury West Sustainable Urban Extension site as set out in S16.1a of the SAMDev
- 7.3 It is considered that development as proposed offers in principle a range of dwellings and public open space along with public highway and transportation that complies with the adopted master plan.
- 7.4 Issues in relation to drainage are considered satisfactory, as are matters in relation to ecology and residential amenity, with conditions attached to any approval notice as discussed in this report.
- 7.5 Landscape and visual impact is considered to be adequately addressed, with biodiversity mitigation as proposed and this matter also subject to condition in order to ensure satisfactory consideration to landscape mitigation and integration into the surrounding environment. Historic matters have also been considered as part of the application processing and there are no concerns raised on this latter issue
- 7.6 Public highway access and impacts on the surrounding trunk road highway infrastructure (Churncote Roundabout), also considered acceptable with neither Highways England or SC Highways raising any objections in relation to the proposal, subject to the conditions as advised by SC Highways in their response to the application as set out in paragraph 4.11 of this report. The Section 106 will include provision for a financial contribution towards the proposed NWRP.
- 7.7 Impacts on surrounding residential amenity and privacy have been considered and it is considered that development on site on this matter is acceptable and will have no significant detrimental impacts on existing surrounding dwellings or dwellings as part of the SUE.
- 7.8 It is noted that Bicton Parish Council and a member of the public make comments in relation to impacts in relation to overall sustainability and local infrastructure, these issues have been considered and the CIL contributions will cover the key issues and requirements in relation to this matter. A section 106 agreement will ensure delivery of affordable housing in accordance with the relevant policy requirements. The Section 106 agreement also ensuring delivery and maintenance of the public open spaces the site provides for as well as a financial contribution towards the relief road. Shropshire Council Highways and National Highways raise no objections on highway grounds. Concerns by the Parish Council and member of the public in relation to drainage, highway matters and sustainability issues have been noted, however all matters considered to be adequately addressed within the spirit of current local planning policies relevant to the application. Whilst the emerging local plan is advancing through the relevant stages towards its adoption, it is considered this can be attributed little weight at its current stage in the adoption process. (The proposal in principle broadly in-line with the emerging policy).
- 7.9 It is considered that the proposal accords with the overall aims and provisions of the NPPF and the relevant Shropshire LDF policies CS1, CS3, CS6, CS8, CS9, CS11, CS17, CS16, MD1, MD2, MD3, MD8, MD12, MD13 and S16. As such the

recommendation is one of approval subject to a S106 legal agreement in relation to affordable housing provision financial contributions towards the North West Relief Road and open space provision and maintenance and management and the conditions as set out in Appendix 1 and any amendments as considered necessary to these conditions by the Assistant Director.

8.0 Risk Assessment and Opportunities Appraisal

8.1 Risk Management

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

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

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

8.2 Human Rights

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

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

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

8.3 Equalities

The concern of planning law is to regulate the use of land in the interests of the

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

9.0 Financial Implications

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

10. Background

Relevant Planning Policies

Central Government Guidance:

West Midlands Regional Spatial Strategy Policies:

Core Strategy and Saved Policies:

CS1 - Strategic Approach

CS2 - Shrewsbury Development Strategy

CS6 - Sustainable Design and Development Principles

CS9 - Infrastructure Contributions

CS11 - Type and Affordability of housing

CS13 - Economic Development, Enterprise and Employment

Economic Development, Enterprise and Employment

CS17 - Environmental Networks

CS18 - Sustainable Water Management

MD1 - Scale and Distribution of Development

MD2 - Sustainable Design

MD3 - Managing Housing Development

MD8 - Infrastructure Provision

MD12 - Natural Environment

MD13 - Historic Environment

Settlement: S16 - Shrewsbury

SPD Sustainable Design Part 1

National Planning Policy Framework

RELEVANT PLANNING HISTORY:

PREAPP/21/00594 Residential development comprising of no.120 dwellings including a range of 2, 3 and 4 bed-dwellings, with associated access from Welshpool Road, landscaping and

open space PREAIP 20th January 2022

22/03543/FUL Mixed residential development of 106 dwellings and associated public open space, internal highways, car parking, garages and landscaping with vehicular access from Gains Park Way.(Amended Description) PDE

11. Additional Information

View details online: <http://pa.shropshire.gov.uk/online-applications/applicationDetails.do?activeTab=summary&keyVal=RFY7FGTDHXV00>

List of Background Papers (This MUST be completed for all reports, but does not include items containing exempt or confidential information)
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Cabinet Member (Portfolio Holder) - Councillor Richard Marshall

Local Member

Cllr Lezley Picton

Appendices APPENDIX 1 - Conditions

APPENDIX 1

Conditions

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

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

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

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

3. The noise mitigation measures as recommended in section 6.1 and 6.2 of the E3P acoustics report ref: 50-501-R1-2 shall be implemented in full.

Reason: In order to protect the amenity of the surrounding area.

4. The works detailed as being necessary to make safe the contamination shall be carried out in accordance with the approved Remediation Strategy within Section 22 of the Coopers (Chester) Ltd; Site Investigation and Build Phase Remediation Strategy Report for Land at Welshpool Road, Shrewsbury; for Anwyl Homes; Ref. 7867siRevA, 5th July 2022.

Reason: To ensure that risks from land contamination to the future users of the land and neighbouring land are minimised, together with those to controlled waters, property and ecological systems, and to ensure that the development can be carried out safely without unacceptable risks to human health and offsite receptors.

5. In the event that further contamination is found at any time when carrying out the approved development that was not previously identified it must be reported in writing immediately to the Local Planning Authority. An investigation and risk assessment must be undertaken in accordance with current Environment Agency guidance 'Land Contamination: Risk Management (LCRM) and must be submitted to and approved in writing by the Local Planning Authority. Where remediation is necessary a remediation scheme must be prepared which must ensure that the site will not qualify as contaminated land under Part 2A of the Environmental Protection Act 1990 in relation to the intended use of the land after remediation. The remediation proposal is subject to the approval in writing by the Local Planning Authority.

Reason: To ensure that risks from land contamination to the future users of the land and neighbouring land are minimised, together with those to controlled waters, property and ecological systems, and to ensure that the development can be carried out safely without unacceptable risks to human health and offsite receptors.

6. Following completion of measures identified in the approved remediation scheme a Verification Report shall be submitted to and approved in writing by the Local Planning

Authority that demonstrates the contamination identified has been made safe, and the land no longer qualifies as contaminated land under Part 2A of the Environmental Protection Act 1990 in relation to the intended use of the land.

Reason: To ensure that risks from land contamination to the future users of the land and neighbouring land are minimised, together with those to controlled waters, property and ecological systems, and to ensure that the development can be carried out safely without unacceptable risks to human health and offsite receptors.

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

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

8. Before any construction works hereby approved are commenced, a Construction Environment Management Plan (CEMP), detailing, in full, the measures to protect existing habitat during construction works and shall be submitted to and approved in writing by the Local Planning Authority. Prior to first occupation / use of the buildings, a Habitat Management Plan (HMP) expanding upon the information provided within the Biodiversity Metric, Landscape Plan and Ecological Appraisal documents detailing, in full, the formation of new habitat, to secure a habitat compensation value of no less than 0.50 (+5.97%) Biodiversity Units, shall be submitted to and approved in writing by the Local Planning Authority. Within the CEMP/HMP document the following information shall be provided:

i) Current soil conditions of any areas designated for habitat creation and detailing of what conditioning must occur to the soil prior to the commencement of habitat creation works (for example, lowering of soil pH via application of elemental sulphur);
ii) Descriptions and mapping of all exclusion zones (both vehicular and for storage of materials) to be enforced during construction to avoid any unnecessary soil compaction on area to be utilised for habitat creation;
iii) Details of species composition and abundance (%age within seed mix etc.) where planting is to occur;
iv) Proposed management prescriptions for all habitats for a period of no less than 25 years;
v) Assurances of achievability;
vi) Timetable of delivery for all habitats; and
vii) A timetable of future ecological monitoring to ensure that all habitats achieve their proposed management condition as well as description of a feed-back mechanism by which the management prescriptions can be amended should the monitoring deem it necessary.
The development shall thereafter be undertaken in accordance with the approved CEMP/HMP.

Reason: To protect and enhance features of recognised nature conservation importance, in accordance with MD12, CS17 and section 180 of the NPPF.

9. All works to the site shall occur strictly in accordance with the mitigation and enhancement measures regarding bats, birds, badgers and hedgehogs as provided in Section 8 of the Ecological Assessment (Star Ecology, November 2021).

Reason: To ensure the protection of and enhancements for bats, which are European

Protected Species and birds which are protected under Section 1 of the 1981 Wildlife and Countryside Act (as amended) and badgers which are protected under the Protection Of Badgers Act, 1992.

10. a) No works associated with the development permitted will commence and no equipment, machinery or materials will be brought onto the site for the purposes of said development until all tree protection measures specified in the submitted Tree Protection Plan and Arboricultural Method Statements have been fully implemented on site and the Local Planning Authority have been notified of this and given written confirmation that they are acceptable. All approved tree protection measures must be followed and maintained throughout the development until all equipment, machinery and surplus materials have been removed from the site. Nothing shall be stored or placed in any area fenced in accordance with this condition and the ground levels within those areas shall not be altered nor any excavation be made, without the prior written consent of the Local Planning Authority. A responsible person will be appointed for day to day supervision of the site and to ensure that the tree protection measures are fully complied with. The Local Planning Authority will be informed of the identity of said person.

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

The proposed landscaping scheme will be implemented prior to the occupation of any dwelling approved under this planning consent.

c) Landscaping to be implemented in accordance with the approved general layout plans and schedule.

d) Landscaping to be maintained for a period of 5 years or until the trees are established and independent in the landscape if this is longer. All trees that fail or become diseased, damaged or moribund are to be replaced within the next planting season.

Reason: To ensure the landscape planting can establish and become independent in the landscape in the long term and will contribute towards the appearance of the development and the amenity of the wider area

11. The construction of any new estate street shall not be commenced until full engineering, drainage, street lighting and constructional details of the streets proposed for adoption have been submitted to and approved in writing by the local planning authority. The development shall, thereafter, be constructed in accordance with the approved details.

Reason: - In the interest of highway safety; to ensure a satisfactory appearance to the highways infrastructure serving the approved development; and to safeguard the visual amenities of the locality and users of the highway.

12. The construction of any new estate street shall not be commenced until an estate street phasing and completion plan has been submitted to and approved in writing by the local

planning authority. The estate street phasing and completion plan shall set out the development phases and the standards that estate streets serving each phase of the development will be completed.

Reason: - To ensure that the estate streets serving the development are completed and thereafter maintained to an acceptable standard in the interest of residential / highway safety; to ensure a satisfactory appearance to the highways infrastructure serving the development; and to safeguard the visual amenities of the locality and users of the highway.

13. Prior to the development hereby permitted being first occupied the Welshpool Road pedestrian crossing shall be fully implemented in accordance with engineering details to be first submitted to and approved in writing by the Local Planning Authority.

Reason: In the interests of pedestrian safety and provide improved pedestrian connectivity across Welshpool Road.

14. Prior to the development hereby permitted being first occupied, a Travel Plan (TP) shall be submitted to and approved in writing by the Local Planning Authority; the TP shall be implemented fully in accordance with the approved details and shall remain in force for the lifetime of the development.

Reason: To promote sustainable travel and in the interests of reducing carbon emissions.

15. The development shall be implemented in accordance with the approved Construction Management Plan and shall remain in force for the duration of the construction period.

Reason: In the interests of highway safety and local amenity.

Informatives

1. Information on how to comply with conditions and what is expected of developers can be found in the Shropshire Councils Contaminated Land Strategy 2013 in Appendix 5. The following link takes you to this document:

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

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

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

All vegetation clearance, tree removal, scrub removal (or other suitable nesting habitat) should be carried out outside of the bird nesting season which runs from March to August inclusive.

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

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

3. Great crested newts are protected under the Habitats Directive 1992, The Conservation of Habitats and Species Regulations 2017 and the Wildlife and Countryside Act 1981 (as amended).

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

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

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

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

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

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

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

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

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

**APPENDIX 2
EUROPEAN PROTECTED SPECIES: The 'three tests'**

Application reference number, site name and description:

22/03543/FUL.

Mixed residential development of 106 dwellings and associated public open space, internal highways, car parking, garages and landscaping with vehicular access from Gains Park Way.(Amended Description) | Proposed Residential Development Land To The South Of Welshpool Road Bicton Heath Shrewsbury Shropshire.

Date:

23rd November 2022

Officer:

**Demi Cook
Planning Ecologist
demi.cook@shropshire.gov.uk
Tel.: 01743 254316**

Test 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'?

Site is allocated for Housing in the Local Plan.

Test 2:

Is there 'no satisfactory alternative?'

No.

Test 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'?

Great crested newts have been recorded within 1km of the proposed development boundary. There are seven ponds within 500m of the proposed development red line boundary. Star Ecology (November 2021) carried out a Habitat Suitability Index assessment and calculated the ponds to be unlikely to support great crested newts or to be separated from site by significant barriers, such as the A438 and A5.

EPS offences under Article 12 are likely to be committed by the development proposal, i.e. damage or destruction of an EPS breeding site or resting place and killing or injury of an EPS.

A Great Crested Newt District Level Licensing Impact Assessment & Conservation Payment Certificate (Enquiry no. DLL-ENQ-SHRP-00043) has been submitted which confirms that the project is eligible to enter the District Level Licensing scheme and that the developer intends to do so.

With the submission of the IACPC, and provided that works are carried out under the District Level Licensing scheme, SC Ecology are satisfied that the impacts of the development on GCN are capable of being fully addressed in a manner which complies with the requirements of the Habitats Regulations. As stated in the IACPC, 'In signing this Certificate Natural England has considered the matters it believes to be necessary to satisfy regulation 55 (9) (b) of the 2017 Regulations ("that the action authorized will not be detrimental to the maintenance of the population of the species concerned at a favourable conservation status in their natural range") and has concluded that the payment by the Applicant of the Conservation Payment will suffice to allow the impacts on great crested newts of the Applicant's proposals on the Site to be adequately compensated, and therefore that these proposals will not be detrimental to the maintenance of the population of great crested newts at a favourable conservation status in their natural range.'

I am satisfied that the proposed development will not be detrimental to the maintenance of the population of great crested newts at favourable conservation status within their natural range, provided that the 'District Level Licence condition for GCNs' condition included in the response from Demi Cook to Philip Mullineux (dated 23rd November 2022) is included on the decision notice and are appropriately enforced.

Guidance

The 'three tests' must be satisfied in all cases where a European Protected Species may be affected by a planning proposal 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 under the legislation is likely to be committed), it is not necessary to consider the three tests.

The planning case officer should consider tests 1 (overriding public interest) and 2 (no satisfactory alternative). **Further information may be required from the applicant/developer/agent to answer these tests.** This should not be a burdensome request as this information will be required as part of the Natural England licence application. If further information is required, it can be requested under s62(3) of the **Town and Country Planning Act 1990**.

Test 3 (favourable conservation status) will be considered by SC Ecology, with guidance from Natural England.

A record of the consideration of the three tests is legally required. This completed matrix should be included on the case file and in the planning officer's report, and should be discussed and minuted at any committee meeting at which the application is discussed.

As well as the guidance provided below, pages 6 and 7 of the Natural England Guidance Note, ***Application of the Three Tests to Licence Applications***, may assist the planning officer to answer tests 1 and 2.

Answering the three tests

Test 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'?

Preserving public health or public safety must also be shown to constitute a reason of **overriding public interest**. You need to demonstrate that action is required to alleviate a clear and imminent danger to members of the general public, e.g.:

1. If an unstable structure (e.g. a building or tree) 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.
2. 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.

Imperative reasons of overriding public interest

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.

Test 2

Is there 'no satisfactory alternative?'

An assessment of the alternative methods of meeting the need identified in test 1 should

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) any other solutions, and c) whether the alternative solutions will resolve the problem or specific situation in (a).

Test 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; and 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 the proposal would have a detrimental effect on the conservation status or the attainment of favourable conservation status for a European Protected Species at all levels. The net result of a derogation should be neutral or positive for a species.

In the case of the 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.

