

AGENDA ITEM



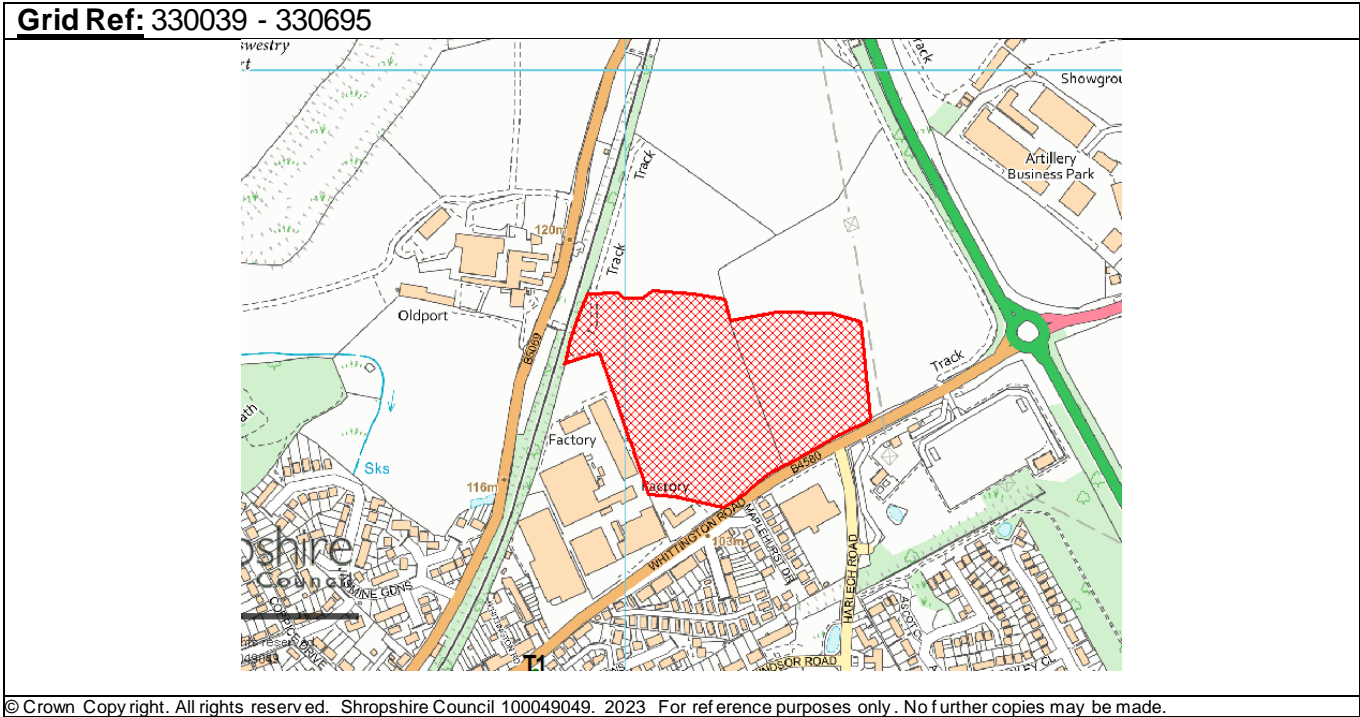
Committee and date
North
28 July 2023

Development Management Report

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

Summary of Application

Application Number: 23/00225/FUL	Parish:	Oswestry Town
Proposal: Proposed residential development of 83 dwellings with associated access, public open space, electricity sub-station, drainage and landscaping (re-submission)		
Site Address: Land North of Whittington Road Oswestry		
Applicant: Cameron Homes		
Case Officer: Philip Mullineux	email: philip.mullineux@shropshire.gov.uk	



Recommendation: Approval subject to the conditions as outlined in appendix one and any amendments to these conditions as considered necessary by the Service Manager and the signing of a Section 106 agreement in order to ensure affordable housing and open space provision in accordance with the detail as set out in the report.

REPORT

1.0 THE PROPOSAL

- 1.1 The application is made in 'full' and proposes residential development of 83 dwellings with associated access, public open space, electricity sub-station, drainage and landscaping (re-submission) on land north of Whittington Road, Oswestry.
- 1.2 The application is accompanied by a site location plan , block plan, elevations and floor plans, design and access statement, planning statement, landscaping details, landscape master plan, phasing plan, boundaries treatment plan, materials plan, drainage detail, flood risk assessment, biodiversity report and survey, tree reports, affordable housing statement, transport assessment, travel plan, construction management report, site investigation report, archaeological report, landscape and visual impact assessment, arboriculture impact assessment, odour report refuse tracking plan, and a noise impact assessment. During the application processing further clarification was received in relation to noise and drainage issues and affordable housing layout and size in relation to expected occupancy rates.

- 1.3 The planning history of the site in relation to residential development is as follows:

PREAPP/09/70108 Proposed development of land for employment purposes 5th May 2009

18/02760/SCR Residential Development **EIA** 6th August 2018

19/02685/EIA Proposed residential development of 52No dwellings with associated access, public open space, electricity sub-station, drainage and landscaping **Withdrawn** - 9th March 2020

19/02686/EIA Residential development of 48 dwellings with associated access, public open space and landscaping (revised description) **Withdrawn** 9th March 2020

20/01033/EIA Proposed residential development of 83No. dwellings with associated access, public open space, electricity sub-station, drainage and landscaping. **Refused** 28th March 2022

22/04686/SCR Proposed residential development of 83No. dwellings with associated access, public open space, electricity sub-station, drainage and landscaping. Environmental statement not required 14th November 2022

23/00225/FUL Proposed residential development of 83 dwellings with associated access, public open space, electricity sub-station, drainage and landscaping (re-submission) - Application under consideration.

1.4 This application seeks planning permission for the same development as a previous application (20/01033/EIA refused on March 28th 2022) – i.e. for 83 dwellings, and addresses the five reasons for refusal as outlined below by providing the necessary information

1. It is considered that insufficient information accompanies the application in relation to ecological impacts as this application requires an updated Ecological Appraisal and must include reference to specific assessments for Great Crested Newts and Badgers. In the absence of this additional information the application is refused since it is not possible to conclude that the proposal will not cause an offence under the 2019 Conservation of Habitats and Species (Amendment) (EU Exit) Regulations and therefore considered contrary to Policies CS6 and CS17 of the Shropshire Core Strategy, Policies MD2 and MD13 of the SAMDev and the National Planning Policy Framework in relation to ecological issues.

2. It is considered that insufficient information accompanies the application in relation to noise and odour impacts and the implications for land uses. As such it is considered that more robust noise and odour assessments and appropriate mitigation schemes are required in order to give these issues adequate planning consideration. This must detail which facades and external areas will exceed the good noise standards as defined in BS8233 (currently considered to be 35dBA LAeq in habitable rooms in the day, 30dB LAeq in bedrooms at night, 45dB LAmax in bedrooms at night and 50dB LAeq in external amenity areas) and specify the mitigation which are proposed. There are also concerns with regards to potential noise impacts and location of the proposed affordable housing. As such the application is considered contrary to Policy CS6 of the Shropshire Core Strategy, Policy MD2 of the SAMDev and the National Planning Policy Framework on this matter. On odour issues it is considered that the odour assessment in support of the application established there will be an adverse impact and it not concluded that landscaping as proposed will be effective in adequately addressing the odour issues.

3. It is considered that insufficient information accompanies the application in relation to potential impacts on the surrounding strategic public highway network. Despite the applicants having been in consultation with National Highways, (Highways England), over a considerable period of time, as set out in the latest National Highways response dated 9th February 2022, no satisfactory response has been brought forward. As such the application is considered contrary to Policies CS6 and CS8 of the Shropshire Core Strategy and Policy MD2 of the

SAMDev and the National Planning Policy Framework in relation to public highway infrastructure.

4. It is considered that insufficient information accompanies the application in relation to drainage issues and impacts. It is considered that the proposed site layout requires a revised drainage layout plan and associated calculations. As such the application is considered contrary to Policies CS6 and CS18 of the Shropshire Core Strategy, Policy MD2 of the SAMDev and the National Planning Policy Framework in relation to drainage issues.

5. The application is a full application yet the details submitted as set out in the Planning Statement, Design and Access Statement and amended plans in support of the application do not correspond with one another. Furthermore no Section 106 Agreement/Heads of Terms accompanied the application in order to satisfy legal issues in relation to provision of affordable housing on site, provision and management of open space and financial contributions as considered necessary. As such the application is considered contrary to Policies CS6, CS9 and CS11 of the Shropshire Core Strategy, Policies MD2 and MD8 of the SAMDev and the National Planning Policy Framework on this matter.

2.0 SITE LOCATION/DESCRIPTION

- 2.1 The site consists of grade 3 agricultural land and covers an area of approx. 4.54 hectares, (application form), and is allocated in accordance with the Council's Site Allocations and Management of Development (SAMDev) Plan for around 117 dwellings. This Plan was adopted in December 2015 after being found 'sound' by an independent planning Inspector and as such is afforded full weight in the planning consideration process
- 2.2 The site is bounded on its south side by the B4580 public highway known as Whittington Road, along the western side by a number of industrial buildings, alongside the north-west side by the Cambrian railway line and to the north and east by agricultural land. Opposite the site, on the other side of the public highway known as Whittington Road, is a residential street and a car dealership.
- 2.3 Approx 100 metres east of the site is located Oswestry's electricity substation with its connection to the National Grid and array of transformers. High voltage electricity pylons extend north of the substation across land to the immediate east of the application site
- 2.4 Below ground, a high-pressure underground pipeline carrying water from Lake Vyrnwy to Liverpool, this runs through the southern part of the site, approximately parallel to Whittington Road. This aqueduct has a sizeable easement which the applicants acknowledge cannot be built upon. Also acknowledged by the applicants are the siting of sluice drains and a rainwater main drain that constrains the developable area on part of the site.

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Land North Of Whittington Road

- 2.5 Further east is the A5 trunk road with the Artillery Business Park and Oswestry Showground beyond. To the north lies agricultural land with the buildings and incinerator tower of Gobowen Orthopaedic Hospital visible 1.5km in the distance. To the north-west on the other side of a public highway known as Gobowen Road is located the site of 'Old Oswestry hill fort', this was a fortified housing site in the Iron Age approximately 800BC to 43AD, and there are substantial views from the Hill Fort site over the surrounding area which includes the application site. This landmark is a 'scheduled ancient monument'.



- 2.6 The Application site is outlined in red on the above aerial photograph indicating its location adjacent to the built form of Oswestry, with the Hill Fort site located to the northwest beyond Oldport Farm.
- 2.7 The application proposes construction of a mixture of traditional two-storey houses, (a mixture of detached, semi-detached and terraced properties), consisting of 83 dwellings which represents a density of 34 dwellings per hectare across the site, to be constructed in one single phase and the breakdown of the proposed dwellings in accordance with the amended detail is as follows:
02 - 1 bedroomed.(affordable units)
27 – 2 bedroomed (includes 4 single storey dwellings),
35 - 3 bedroomed (includes 2 affordable units).

19 – 4 bedroomed

83 - Total. (Representing a density of 34 dwellings per hectare).

(08 - affordable houses, representing 10%).

- 2.8 A screening opinion dated 11th November 2022 reference number 22/04686/SCR concluded that *'the area of the development does not exceed any of the indicative criteria's as set out in the regulations (Schedule 2 – 10(b) for determining significance and whether or not there is a need for EIA, and as such it is concluded that an Environmental Statement is not required in support of any formal application for the development as indicated.*

However, in order to ensure adequate and thorough consideration to the historic and cultural environment along with landscape, visual impacts, surface and foul water drainage, ecological impacts and highway matters, arising as a result of the proposal detail will be required as outlined in the appendix below.

Please also be aware the above list is not exhaustive and covers the key issues of concern in relation to the proposal.

Should any details of the proposed development change, or if new information comes to light as part of the application process, then further detail may be considered necessary, if the development is judged to raise further significant environmental impacts. Any additional alterations will need to be assessed by the Local Planning Authority to consider whether this screening opinion remains valid for the amended development. In accordance with Part 2 of the EIA Regulation 2017 5(6) any person has the right to seek a screening opinion from the Secretary of State should they disagree with this the Council's screening opinion.

Appendix.

Notwithstanding the above any formal application for development on site will need to be carried out in accordance with SAMDev Policy S14.1a and accompanied by a detailed

Report on cultural heritage and supported by a Heritage Impact Assessment, updated to reflect the changes to national planning policy and any design changes for the development that have occurred since the submission of the last formal application, and the results of an archaeological field evaluation.

Any formal application will also need to be accompanied by a Landscape and Visual Impact Assessment which will need to reference the historic and cultural heritage of the site and its setting.

As the site exceeds 1 hectare in area, a flood risk assessment will also be required.

It is not considered that development (as outlined) would give rise to significant environmental effects on biodiversity so as to screen it in as EIA development. There are no international or national designated sites located nearby, so it is not to be located in an area of high biodiversity sensitivity. However, an Ecological Impact Assessment of the land in and surrounding the proposed development and a discussion of any potential impacts resulting from the development. An Ecological Impact Assessment should consist of:

- *An Extended Phase 1 habitat survey, habitat map and target notes on any significant biodiversity or geological features.*
- *A desk study of historical species records and local, regional or national wildlife designated sites.*
- *Supplementary detailed surveys (phase 2 habitat surveys, protected or priority species or geological features as appropriate to the site).*
- *Evaluation of the importance of biodiversity or geological features present at a local, regional, national, international level.*
- *Analysis of the direct and indirect impacts of the development (during construction, working area, additional infrastructure and post construction).*
- *Proposed avoidance, mitigation or compensation measures, including method statements where appropriate.*
- *Legal implications such as the need for European Protected Species Mitigation Licences or other licences (e.g. badgers).*
- *Proposed biodiversity or geodiversity enhancement measures, ensuring no net loss of biodiversity.*

The Ecological Impact Assessment should be carried out by a suitably qualified and experienced ecologist.

Bats

Should development proposals involve development close to, or felling or lopping of trees then these should be assessed in line with the Bat Conservation Trusts Good Practice Guidelines (3rd edition, 2016) with any follow up surveys to assess the presence/likely absence of bat roosts undertaken. Bat activity surveys should also be carried out, in line with the Good Practice Guidelines, particularly focussing effort on any hedgerows, tree or scrub lines or other suitable habitat to be lost. Mitigation should be designed in line with the Natural England Bat Mitigation Guidelines. Any deviation from the methods, level or timing of surveys set out in the Good Practice Guidelines should be accompanied by a reasoned evidence statement from the licensed ecologist carrying out the survey clarifying how the sub-optimal survey is ecologically valid.

Badgers

This site and its surroundings contain habitat suitable to support badgers. An inspection of all suitable habitat on site and to a distance of at least 30m from the site boundaries should be carried out. Where badgers are confirmed to be

present, a mitigation strategy and precautionary method statement should be provided in support of the planning application.

Habitats

Existing priority habitats such as hedgerows and ponds should be incorporated into any scheme, with opportunities proposed to enhance their value for wildlife Enhancement. Enhancements should be proposed through the scheme, and these may include additional hedge and tree planting and areas of species-rich semi-natural habitat such as hay meadows, wetlands etc.

Sustainable long-term management of the green Infrastructure and ecological habitats.

Consideration should be given to how the long-term management of the Green Infrastructure for the site will be secured and implemented. The assessment should detail the mechanisms by which the favourable conservation status of populations of GCNs, bats and other protected and important species will be maintained in the long term and secured through s106 or other agreements at the planning application stage.

Biodiversity Impacts

SC Ecology now require Biodiversity Net Gain calculations for all major developments. This must demonstrate an increase in habitat value compared to the pre-development baseline.

In accordance with policies MD12, CS17 and the NPPF, the development must demonstrate how it protects and enhances biodiversity. This should include the provision of information on measurable habitat losses and gains pre and post development (eg through using DEFRA Biodiversity Metric 3.1) and may take into account any other biodiversity enhancement measures (such as for species) to be incorporated into the development. The above list of required ecological information is not exhaustive and would be informed by the results of an Extended Phase 1 habitat survey and desk study.

Also required will be a transport assessment with regards to impacts on adjacent public highways and vehicle movements.'

3.0 REASON FOR COMMITTEE DETERMINATION OF APPLICATION

- 3.1 The Town Council has submitted a contrary view to officers based on material reasons and it is agreed by the Planning Manager in consultation with the chairman and vice-chairman that this application should be determined by committee in accordance with the Council's constitution.

4.0 Community Representations

- 4.1 **Oswestry Town Council** has responded indicating:

Members agreed that the proposed development was isolated, lacked facilities for residential housing and had not taken into account access along the railway line. It was also agreed that the excessive traffic and speed issues were a major safety concern.

It was therefore resolved to object to the Planning Application and recommend refusal based on the following reasons:

The principal objection is that the proposed development is inappropriate in this setting and context due to its close proximity to Old Oswestry Hillfort. The Council have previously objected to the inclusion of Osw004 in the Local Plan. In addition:

- Connectivity to the town is poor, the development would be isolated from the town centre and, fundamentally in the wrong place. The development will not be served by public transport with active transport options being extremely limited;*
- A disproportionately high number of future homes are due to be delivered in the north of the town with specific impacts on the road network around Whittington Road. Existing problems will be exacerbated significantly, creating highway safety risks and both noise and air pollution. No associated works to improve Whittington Road and Gobowen Road junction are included in the proposal;*
- No consideration given to the wider impact on already stretched community services such as schools and GP services;*
- The Town Council are supportive of the restoration of rail links between the town and Gobowen along this line, the potential impact of this on the development needs to be considered. The application does not address the requirement to provide a crossing over the railway line.*

4.2 Consultee Comment

4.3 National Highways have responded to the application indicating:

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 recommendation regarding the planning application 23/00225/FUL and has been prepared by Neil Hansen.

The closest point of impact from the proposed development on the SRN in the area is the A5 Whittington Road roundabout, located circa 200m east of the development site.

The vehicular access to the development is proposed from Whittington Road via a new ghost island priority junction.

The development site has planning history for application references 19/02685/EIA and 19/02686/EIA which were later withdrawn by the applicant in March 2020.

Following this, a revised planning application 20/01033/EIA for a development of 91 dwellings was submitted. This application was refused by Shropshire Council on non-highway grounds with a decision notice issued in March 2022. The applicant has now re-submitted the current planning application for 83 dwellings. National Highways consider that the distance of the access of the proposed development from the SRN is such that it will have no adverse traffic impact on any potential improvement scheme at the A5 Whittington Road roundabout. In view of the above National Highways offer no objection

4.4 **Historic England** have responded indicating:

The application is a revision of an earlier application (20/01033/EIA) that was refused on 28th March 2022. In the interim the Local Planning Authority has issued a Screening Decision (11th November 2022) determining that an Environmental Statement is not required. The application is for 83 houses and includes minor layout changes including the replacement of six two-storey dwellings with single-storey dwellings. This response can be read alongside our consultation replies of 16th February 2022 and 16th April 2020. (Officer's comment – The responses from Historic England to the previous application indicated in NPPF terms that the impact of the development within the setting of Old Oswestry Hillfort, would be to cause less than substantial harm to its significance and that in coming to its decision, the Council should fully consider the relevant NPPF paragraphs).

The application includes updated documents including a Heritage Impact Assessment by Warwickshire Archaeology, December 2022, and a Landscape and Visual Impact Assessment (LVIA) by Pegasus, December 2022, neither of which differs substantively from those submitted as part of the earlier application 20/01033/EIA. In our letter of 16th April 2020 we agreed with the assessment set out in Table 13 of the LVIA of March 2020, that the view from Whittington Road towards Old Oswestry Hillfort would be substantially changed by development that will introduce new built form, albeit set back from the road, and that the proportion of the view affected would be relatively extensive. This remains our view regarding the current proposal.

Recommendation

In NPPF terms we assess that the impact of the development within the setting of Old Oswestry Hillfort, would be to cause less than substantial harm to its significance. In coming to a decision, the Council should fully consider NPPF paragraphs 199 and 200 and apply the tests of NPPF paragraph 202.

Your authority should take these representations into account in determining the application. If there are any material changes to the proposals, or you would like further advice, please contact us.

4.5 **United Utilities** have responded to the application indicating:

United Utilities wish to make the following comments regarding the proposal detailed above.

CONDITIONS

Should the Council be minded to grant permission for this scheme, please note our request for planning conditions to be included in the subsequent decision notice as detailed in section 'UNITED UTILITIES' PROPERTY, ASSETS AND INFRASTRUCTURE

'Where United Utilities' assets cross the proposed red line boundary, developers must contact our Developer Services team prior to commencing any works on site, including trial holes, groundworks or demolition. Please see 'Contacts' section below.

According to our records there is an easement in the vicinity the proposed development site which is in addition to our statutory rights for inspection, maintenance and repair. The easement dated 12/02/1932 UU Ref: w670 has restrictive covenants that must be adhered to. It is the applicant's responsibility to obtain a copy of the easement document, available from United Utilities Legal Services or Land Registry. The applicant must comply with the provisions stated within the document.

Water pipelines

United Utilities will not allow building over or in close proximity to a water main. A large diameter trunk main is located in the site. It must not be built over, or our access to the pipeline compromised in any way. We require an access strip as detailed in our 'Standard Conditions for Works Adjacent to Pipelines', which can be found on our website: <https://www.unitedutilities.com/builders-developers/your-development/planning/buildingover-or-working-near-our-assets/working-near-our-pipes/>. The applicant must comply with this document to ensure pipelines are adequately protected both during and after the construction period.

Following our review of the proposed site layout plan reference P22 2497_DE_005_E and Drainage Strategy plan reference 2 Rev L, should the Council deem this application suitable for approval we request the following condition is included in the subsequent Decision Notice to afford appropriate protective measures for this large asset:

CONDITION 1: Asset Protection

No construction shall commence until details of the means of ensuring the water main that is laid within the site boundary is protected from damage as a result of the development have been submitted to and approved by the Local Planning Authority in writing. The details shall outline the potential impacts on the water main from construction activities and the impacts post completion of the development on the water main infrastructure that crosses the site and identify mitigation measures to protect and prevent any damage to the water main both during construction and post completion of the development. Any mitigation measures shall be implemented in full in accordance with the approved details.

Reason: In the interest of public health and to ensure protection of the public water supply.

Wastewater pipelines

United Utilities will not allow a new building to be erected over or in close proximity to a public sewer or any other wastewater pipeline. This will only be reviewed in exceptional circumstances.

Nb. Proposals to extend domestic properties either above, or in close proximity to a public sewer will be reviewed on a case by case basis by either by a building control professional or following a direct application to United Utilities (see our website for further details).

Important information regarding water and wastewater pipelines and apparatus It is the applicant's responsibility to investigate and demonstrate the exact relationship between United Utilities' assets and the proposed development.

A number of providers offer a paid for mapping service, including United Utilities (see 'Contacts' section below). The position of the underground apparatus shown on water and wastewater asset maps is approximate only and is given in accordance with the best information currently available. Therefore, we strongly recommend the applicant, or any future developer, does not rely solely on the asset maps to inform decisions relating to the detail of their site and instead investigates the precise location of any underground pipelines and apparatus.

United Utilities

Water will not accept liability for any loss or damage caused by the actual position of our assets and infrastructure being different from those shown on asset maps. Developer's should investigate the existence and the precise location of water and wastewater pipelines as soon as possible as this could significantly impact the preferred site layout and/or diversion of the asset(s) may be required. Unless there is specific provision within the title of the property or an associated easement, any necessary disconnection or diversion of assets to accommodate development, will be at the applicant/developer's expense. In some circumstances, usually related to the size and nature of the assets impacted by proposals, developers may discover the cost of diversion is prohibitive in the context of their development scheme. Any agreement to divert our underground assets will be subject to a diversion application, made directly to United Utilities. This is a separate matter to the determination of a planning application. We will not guarantee, or infer acceptance of, a proposed diversion through the planning process (where diversion is indicated on submitted plans). In the event that an application to divert or abandon underground assets is submitted to United Utilities and subsequently rejected (either before or after the determination of a planning application), applicants should be aware that they may need to amend their proposed layout to accommodate United Utilities' assets. Where United Utilities' assets exist, the level of cover to United Utilities pipelines and apparatus must not be compromised either during or after construction and there should be no additional load bearing capacity on pipelines without prior agreement from United Utilities. This would include sustainable drainage features, earth movement and the transport and position of construction equipment and vehicles.

Any construction activities in the vicinity of United Utilities' assets, including any assets or infrastructure that may be located outside the applicant's red line boundary, must comply with national building and construction standards and where applicable, our 'Standard Conditions for Works Adjacent to Pipelines', a copy of which is available on our website. The applicant, and/or any subsequent developer should note that our 'Standard Conditions' guidance applies to any design and construction activities in close proximity to water pipelines and apparatus that are no longer in service, as well as pipelines and apparatus that are currently operational.

It is the applicant's responsibility to ensure that United Utilities' required access is provided within any proposed layout and that our infrastructure is appropriately protected. The developer would be liable for the cost of any damage to United Utilities' assets resulting from their activity.

DRAINAGE

National Planning Policy Framework (NPPF) and the National Planning Practice Guidance (NPPG) advise that surface water from new developments should be investigated and delivered in the following order of priority:

- 1. into the ground (infiltration);*
- 2. to a surface water body;*
- 3. to a surface water sewer, highway drain, or another drainage system;*
- 4. to a combined sewer.*

The applicant should consider their drainage plans in accordance with the drainage hierarchy outlined above.

Please note, United Utilities is not responsible for advising on rates of discharge to the local watercourse system. This is a matter for discussion with the Lead Local Flood Authority and / or the Environment Agency (if the watercourse is classified as main river). In the event that the applicant, or any subsequent developer, approaches United Utilities regarding a connection for surface water to the public sewer, it is likely that we will request evidence that the drainage hierarchy has been fully investigated and why more sustainable options are not achievable. This will be managed through either our 'S106 Sewer Connections' or 'S104 Adoptions' processes.

If the applicant intends to offer wastewater assets forward for adoption by United Utilities, their proposed detailed design will be subject to a technical appraisal by our Developer Services team and must meet the requirements outlined in 'Sewerage Sector Guidance Appendix C – Design and Construction Guidance v2-2' dated 29 June 2022 or any subsequent iteration. This is important as drainage design can be a key determining factor of site levels and layout. The applicant should not presume that the principles outlined within a drainage strategy will meet the detailed requirements for a successful adoption application. We strongly recommend that no construction commences until the detailed drainage design, has been assessed and accepted in writing by United Utilities. Any works carried out prior to the technical assessment being approved is done entirely at the developers own risk and could be subject to change.

WATER AND WASTEWATER SERVICES

If the applicant intends to receive water and/or wastewater services from United Utilities they should visit our website or contact the Developer Services team for advice at the earliest opportunity. This includes seeking confirmation of the required metering arrangements for the proposed development. See 'Contacts' Section below.

If the proposed development site benefits from existing water and wastewater connections, the applicant should not assume that the connection(s) will be suitable for the new proposal or that any existing metering arrangements will suffice. In addition, if reinforcement of the water network is required to meet potential demand, this could be a significant project and the design and construction period should be accounted for.

In some circumstances we may require a compulsory meter is fitted. For detailed guidance on whether the development will require a compulsory meter please visit <https://www.unitedutilities.com/my-account/your-bill/our-household-charges-20212022/> and go to section 7.7 for compulsory metering.

To promote sustainable development United Utilities offers a reduction in infrastructure charges for applicant's delivering water efficient homes and draining surface water sustainably (criteria applies). For further information, we strongly recommend the applicant visits our website when considering any water or wastewater design <https://www.unitedutilities.com/buildersdevelopers/your-development/planning/building-sustainable-homes/>

Business customers can find additional information on our sustainable drainage incentive scheme at <https://www.unitedutilities.com/Business-services/retailers/incentive-schemes/>

4.6 **SC Landscape Consultant** has responded to the application indicating in conclusion:

We consider that the LVIA has been prepared in a proportionate manner in compliance with the guidance set out in GLVIA3 and supporting Technical Guidance Notes.

The LVIA finds that the majority of landscape and visual effects are adverse, with a small number of neutral visual effects. The adverse effects range from moderate to major adverse (significant) to negligible adverse. At Year 15 with mitigation in place, predicted levels of effect reduce and none are predicted to be significant. No beneficial effects are predicted.

The most adverse effects are predicted in the short term for users of the Hillfort, and the significant predicted levels of moderate to major adverse arise from a combination of (a) the very high visual sensitivity of visitors to the Hillfort, and (b) the open views to the south eastern parts of the proposed development. Although the proposed development will bring a Receptor Effects at completion Effects at completion with mitigation in place Landscape effects Principal Settled Farmlands

LCT Negligible adverse Negligible adverse Site's local landscape character Minor to moderate adverse Negligible to minor adverse Visual effects 1 B4580 Whittington Road Moderate adverse Minor to moderate adverse 2 B4580 Whittington Road Negligible adverse Negligible adverse 3 B4580 Whittington Road Moderate adverse Minor adverse 4 A5 Negligible to minor adverse Negligible adverse 5 A5 Negligible adverse Negligible adverse 6 B4580 Whittington Road Negligible adverse Negligible adverse 7 Llwyn Road/NCR 455, Wat's Dyke Negligible adverse Neutral 8 Old Oswestry Hillfort Moderate to major adverse Minor to moderate adverse 9 Old Oswestry Hillfort Moderate to major adverse Minor to moderate adverse 10 B5069 Moderate adverse Minor to moderate adverse 11 A4069 Negligible adverse Negligible adverse 12 Wat's Dyke Neutral Neutral 13 B4579 Neutral Neutral 14 B4580 & Harlech Road Moderate adverse Minor to moderate adverse noticeable new element into the landscape, parts of it will be obscured by the trackside vegetation along the Cambrian Railway, and it appears located within an arc of existing built form comprising Oldport and the settlement edge of Oswestry. Over time, the proposed planting within the development and on the frontage open space to Whittington Road will have the beneficial effect of softening the visually intrusive commercial/employment built form on the southern edge of Whittington Road.

We have concerns that the phased nature of the development places significant risks to the effective delivery of the proposed mitigation and enhancement measures, given that a significant proportion of the measures proposed for Phase 1 are contained within Phase 2. (Officer comment – the development is not phased as the applicants have confirmed it will be carried out in one phase).

Whereas outline details of the observation point are included, no details are provided on the interpretive material relating to the Hillfort.

The recommendations that we made in our February 2023 review in relation to additional information to be sought prior to determination of the application have been satisfactorily addressed. We therefore recommend that, if the application is approved, we recommend that conditions be imposed requiring

- The open space adjacent to the northern boundary of the site be laid out in its entirety by the end of the first planting season after commencement of development of Phase 1*
- The submission of details of the observation point and interpretive material relating to the Hillfort*

4.7 SC Ecology have responded indicating:

I am satisfied with the proposed landscape management plan and the landscape and visual impact assessment prepared by Pegasus Group (March 2023). Any variation of the landscape management plan shall be submitted to and approved in writing by the Local Planning Authority.

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- Land North Of Whittington Road

No objection:

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

I have reviewed the information and plans submitted in association with the application and I am happy with the survey work carried out.

The Ecological Impact Assessment carried out by Eco Tech (Amended January 2023) determined no substantial change has occurred on site from the original report in November 2018. The majority of the site comprises arable land, with a small region of tall ruderal, which is now dense bramble and short perennial vegetation, which is used for storing materials, so is mostly bare ground as of 2022.

There are five ponds within 500m which were surveyed for their suitability to support great crested newts. Records have confirmed the presence of great crested newts within ponds 2 and 3 (180m and 220m away, respectively). Further eDNA surveys were conducted on pond 1, which produced a negative result for great crested newts. Given the significant barriers between the site and ponds 2 and 3, it has been concluded that a negative impact to great crested newts is unlikely.

The habitats present on site are likely to provide suitable breeding habitats for nesting birds. Records include the presence of Skylark on site, although this species was not recorded on site during any of the site visits.

An outlier badger sett was recorded during the 2018 survey, in the north-western corner. This sett was not recorded in 2022, concluding that the site is no longer used by badgers. However, evidence of badger use was recorded outside of the redline badger, with the closest sett considered to be some 60m from the redline boundary.

The Biodiversity Net Gain assessment (Eco Tech, January 2023) has concluded a net gain on site of 4.00 Habitat Units (+42.60%) and 5.23 Hedgerow Units (768.76%). This has been proposed in accordance with the landscape composite plan, drawing ref: P22-2497_EN_0007_A_0001 (Pegasus Group, December 2022). Should the landscape plan change, the metric calculations will need to be revised to reflect this.

Any external lighting to be installed on the building should be kept to a low level to allow wildlife to continue to forage and commute around the surrounding area.

SC ecology require biodiversity net gains at the site in accordance with the NPPF

and CS17. The installation of wildlife boxes will enhance the site for wildlife by providing additional roosting and nesting habitat.

I recommend that the following conditions and informatives are included on the decision notice:

Badgers – pre-commencement survey condition

Within 90 days prior to the commencement of development, a badger inspection shall be undertaken by an appropriately qualified and experienced ecologist and the outcome reported in writing to the Local Planning Authority. If new evidence, or a change in status, of badgers is recorded during the pre-commencement survey then the ecologist shall submit a mitigation strategy for prior approval that sets out appropriate actions to be taken during the works. These measures will be implemented as approved.

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

Biodiversity Net Gain – on-site provision

Before any construction works hereby approved are commenced, a Construction Environment Management Plan (CEMP) and Habitat Management Plan (HMP) expanding upon the information provided within the Biodiversity Metric, Landscape Plan and Ecological Impact Assessment documents detailing, in full, measures to protect existing habitat during construction works and the formation of new habitat, to secure a habitat compensation value of no less than +42.60% 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 30 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*

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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.

Wildlife enhancements condition

Prior to first occupation / use of the buildings, the makes, models, and locations of wildlife boxes/enhancements shall be submitted to and approved in writing by the Local Planning Authority.

The following boxes shall be erected on the site:

- 1 in every 3 proposed dwellings will have an external woodcrete bat boxes or integrated bat bricks, suitable for nursery or summer roosting for small crevice dwelling bat species.*
- 1 in every 3 proposed dwellings will have artificial nests, of integrated brick design, suitable for swifts (swift bricks).*
- A minimum of 15 artificial nests, of either integrated brick design or external box design, suitable for starlings (42mm hole, starling specific), sparrows (32mm hole, terrace design), house martins (house martin nesting cups), swallows (swallow nesting cups) and/or small birds (32mm hole, standard design).*
- A minimum of 10 invertebrate bricks shall be incorporated into the site design.*
- A minimum of 3 hedgehog domes (standard design) will be incorporated into the site design.*
- A minimum of 2 hibernaculum shall be created, suitable for amphibians.*

The boxes/enhancements shall be sited in suitable locations, with a clear flight path and where they will be unaffected by artificial lighting. The boxes shall thereafter be maintained for the lifetime of the development.

For swift bricks: Bricks should be positioned 1) Out of direct sunlight 2) At the highest possible position in the building's wall 3) In clusters of at least three 4) 50 to 100cm apart 5) Not directly above windows 6) With a clear flightpath to the entrance 7) North or east/west aspects preferred. (See <https://www.swift-conservation.org/Leaflet%20-%20Swift%20Nest%20Bricks%20-%20installation%20&%20suppliers-small.pdf> for more details).

Reason: To ensure the provision of roosting and nesting opportunities, in accordance with MD12, CS17 and section 180 of the NPPF.

Lighting Plan condition

Prior to the erection of any external lighting on the site, a lighting plan shall be submitted to and approved in writing by the Local Planning Authority.

The lighting plan shall demonstrate that the proposed lighting will not impact upon ecological networks and/or sensitive features, e.g. bat and bird boxes, trees, and hedgerows. The submitted scheme shall be designed to take into account the advice on lighting set out in the Bat Conservation Trust's Guidance Note 08/18 Bats and artificial lighting in the UK. The development shall be carried out strictly in accordance with the approved details and thereafter retained for the lifetime of the development.

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

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, badgers and birds as provided in Section 5 of the Ecological Impact Assessment (Eco Tech, amended January 2023).

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

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 and scrub removal 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.

Badgers informative

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

Badgers are a highly mobile species and are known to create new setts and abandon and re-use existing setts in relatively short periods of time.

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

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

General site informative for wildlife protection

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 2006 Natural Environment and Rural Communities Act. 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 amphibians and hedgehogs.

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

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

direction, towards remaining vegetated areas (hedgerows etc.) to avoid trapping wildlife.

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

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

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

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

If a Great Crested Newt is discovered at any stage then all work must immediately halt and an appropriately qualified and experienced ecologist and Natural England (0300 060 3900) should be contacted for advice. The Local Planning Authority should also be informed.

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

Hedgerows are more valuable to wildlife than fencing. Where fences are to be used, these should contain gaps at their bases (e.g. hedgehog-friendly gravel boards) to allow wildlife to move freely.

4.8 SC Learning and Skills Manager has responded indicating:

Shropshire Council Learning and Skills forecasts that the proposed development, along with other development proposals in the vicinity will impact on future schooling requirements in the catchment area. It is currently forecast that the local primary school may require additional capacity and requirements will be monitored. The secondary school will require additional capacity in the current plan period. It is therefore essential that the developers of this and any new housing in this area contribute towards the consequential cost of any additional places/facilities considered necessary to meet pupil requirements in Oswestry. It is

recommended that increased capacity requirements as a result of this development for schooling in the area is met from CIL contributions.

4.9 **West Mercia Constabulary** have responded indicating:

I refer to my comments made on previous applications concerning this development. My comments remain the same and are detailed below.

I comment on this proposal as Design Out Crime Officer for West Mercia Police. I do not wish to formally object to the proposal at this time. However there are opportunities to design out crime, reduce the fear of crime and to promote community safety.

Therefore should this proposal gain planning approval the below advice should be considered by the developer.

The developer should aim to achieve the Police Crime Prevention initiative award of Secured By Design. Secured By Design is a nationally recognised award aimed at achieving a minimum set of standards in crime prevention for the built environment. The scheme has a proven track record in crime prevention and reduction. The opportunity for burglary offences to occur can be reduced by up to 87% if Secured By Design is achieved. There is a clear opportunity within this development to achieve a Secured by Design award (Gold, Silver or Bronze) By doing so it can also address the requirements of Approved Document Q.

Approved Document Q applies to all new dwellings, including those resulting from a change in use of an existing building, such as commercial premises, warehouse and barns undergoing conversions into dwellings. It also applies to builds within Conservation Areas. Approved Document Q creates security requirements in relation to doors at the entrance to a building, including garage doors where there is a connecting inner door leading directly into the dwelling. Also included are ground floor, basement and other easily accessible windows; and any easily accessible roof-lights. The requirement is that the product must be shown to have been manufactured to a design that has been tested to an acceptable security standard.

In recent times there has been a tendency to install thumb turn locks on front doors. This type of locking device should only be considered when the lock cannot be easily seen from the outside, any glazed panels are fitted with laminate glass to standard PAS24:2016/ STS 201 and a deflector is fitted to the inside of any letter box opening. Thumb turn locks should never be considered for rear doors if they are half glazed and the internal thumb turn can be easily seen from the outside. This will increase the potential for burglary and other offences to occur.

The principles and standards of the Secured By Design initiative give excellent guidance on crime prevention through the environmental design and also on the

physical measures. Details can be found at www.securedbydesign.com

During the build the developer has a responsibility for site security. They should aim to keep any compound, machinery and tools as secure as possible whilst on site. Offenders will visit such sites to test security measures that are or are not in place and if they are not up to standard then they will be attacked causing an increase in crime in the locality. Every effort should be made to keep property safe and secure. The Design Out Crime Officer can offer professional advice if requested to do so.

Please do not hesitate to contact me if you would like clarification of any of my comments.

4.10 **SC Housing** has responded indicating:

The mix of affordable house sizes are now acceptable and the proforma shows the correct financial contribution.

4.11 **SC Environmental Protection** have responded indicating:

Environmental Protection have reviewed the application and have the following comments on Noise and contaminated land: Noise The additional noise information provided clarifies that the mitigation scheme proposed in the acoustic report is acceptable if fully implemented. Should it be considered appropriate to grant consent I recommend that the following condition is applied:

*The approved mitigation scheme, as detailed in Revision 4 of the Hoare Lea Acoustic report dated 13 March 2023, shall be completed prior to the first occupation of the development and shall thereafter be retained.
Reason: To protect residential amenity, health and wellbeing.*

Contaminated Land A report by ASL; Site Investigation, Land at Whittington Road, Oswestry; Report No. 223-18-020- 09 Rev1, dated September 2018 has been submitted in support of this application. Some potential contaminant linkages have been identified that require remediation in the northwest area of the site (gas and soil). Outline remediation proposals have been proposed, but a more detailed remediation strategy is required to include validation proposals.

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

a) In the event of the Site Investigation Report finding the site to be contaminated a further report detailing a Remediation Strategy shall be submitted to and approved in writing by the Local Planning Authority. The Remediation Strategy 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. b) The works detailed as being necessary to make safe the contamination shall be carried out in accordance with the approved Remediation Strategy. c) 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 DEFRA and the Environment Agency's 'Model Procedures for the Management of Land Contamination, CLR 11' 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. d) 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.

An earlier response indicated:

Environmental Protection has reviewed the noise and odour reports provided with the application and has the following comments:

Noise

Following on from assessments carried out for the previous application the current proposal has incorporated a single aspect design for properties facing the commercial use to west of the site which has largely mitigated the impact of commercial noise on these properties. The rear rooms of the houses closest to the commercial use (24-31) would slightly exceed the recommended noise standard. These properties have still been allocated for affordable housing despite the comments in the previous application, as detailed below.

It is also noted that the affordable housing has been located in the areas most impacted by noise. Affordable homes are provided to ensure that those on lower

incomes have availability to housing to fit their needs. Individuals are considered more likely to have limited available funds with which to procure additional betterments to their residence to improve their health and wellbeing. For example some may not have the funds to maintain mitigation measures such as acoustic glazing or fencing or afford to spend more time out of the residence on recreation and leisure activities. Where a site can only achieve a good level of amenity in respect of noise, in some of the proposed dwellings, these should be prioritised for affordable housing. This is in line with the objectives of health and wellbeing documentation such as the Public Health Outcomes Framework which has an overarching objective of reducing health inequalities.

Modelling information has been provided which gives the façade noise levels for the properties to the west of the site. However, modelling and façade noise levels have not been provided for properties to the east of the site that will be impacted by road traffic noise from the A5 and Whittington Road. Please could the applicant provide ground and first floor façade levels for the remainder of the properties. This is relevant to establish the level of ventilation required in accordance with Part O: overheating of the building regulations which came into effect in June 2022.

Odour

The odour report conclusions that there is not likely to be any significant impact due to odour from the neighbouring commercial activities is accepted.

4.12 **SC Drainage** have responded indicating:

The technical details submitted for this Planning Application have been appraised by WSP UK Ltd, on behalf of Shropshire Council as Local Drainage Authority.

All correspondence/feedback must be directed through to Shropshire Council's Development Management Team.

Condition:

No development shall take place until a scheme of surface and foul water drainage has been submitted to and approved in writing by the Local Planning Authority. The approved scheme shall be fully implemented before the development is occupied/brought into use (whichever is the sooner).

Reason: The condition is a pre-commencement condition to ensure satisfactory drainage of the site and to avoid flooding.

Comments:

1. The Flood Routing Plan 0131/102 Rev B shows too many gullies. Any exceedance flow generated as a result of storms with a greater magnitude of

50mm/hr can be stored on the carriageway or within less vulnerable open areas of the development.

An analysis should be carried out to ensure that exceedance does not lead to the flooding of property or contribute to flooding outside of the development site with a view to reduce the number of gullies.

2. An existing culverted watercourse on the development's south-west boundary is likely to be present, which the diverted sluice drain is connecting to, as shown on drawing 0131/2 Rev L. The existing culvert should be clearly identified and a 6m easement allowed for future maintenance.

3. The Drainage Strategy drawing 0131/2 Rev L indicates that the pond design was based on a test result from WS403. No details of this trial hole can be located. Details should be supplied or confirmation it is based on WS 107. Although borehole logs have been provided with the submission, no pit reference have been provided. These must be supplied to ensure suitability of the ground given that the pond design is based on a single test point.

4. A drained area plan clearly showing the allowance for urban creep must be provided together with hydraulic and simulation calculations for the drainage layout, including the design of the pond for a 1% plus CC critical storm event.

5. Shropshire Council's Highway Development Control should be consulted on the location of the oversized pipes under the highway which they may object to if adopting the highway above.

4.13 **SC Trees** have responded indicating:

The application is a resubmission and previous comments on the arboricultural aspect made in respect of application 20/01033/EIA are relevant to this proposal. It is advised that the Council's landscape advisor is consulted on this proposal.

The site of the proposed development is currently open farmland with a low level of tree cover. There a number of individual specimens, mainly along the south and west boundary and there are also several lengths of native species hedgerow, again mainly around the boundaries of the site, with on section running north south through the site. There are no veteran trees or areas of ancient woodland on or adjacent to the site.

An Arboricultural Impact Assessment has been prepared and submitted with the application. This has identified 16 individual 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 these are appropriate. It is noted that the AIA is dated July 2018 and it is recommended that the it be updated to reflect any changes in the tree cover on the site, particularly in light of the impact of ash die-back.

The site layout has been designed to accommodate the majority of the existing trees and hedgerows, with the only loss being the section of hedgerow running north south through the site and part of the hedgerow along Whittington Road, to allow for the formation of the main access road. These hedgerows are not particularly significant and do not meet the criteria of an important hedge in terms of plant species under the 1997 Hedgerow Regulations.

The development includes landscape tree planting and a scheme has been designed to take account of the advice given in the arboricultural impact assessment and from Shropshire Council. The scheme makes provision for additional tree planting along the boundary of the site fronting Whittington Road, tree planting on the north and west boundary to soften views into the site from the Hillfort and surrounding countryside and feature trees forming an avenue through the site and individual specimens.

The proposal would have a very low impact on the existing arboricultural resource and the new planting would bring significant benefits and increase the extent of the urban forest in Oswestry.

No objection are raised to the proposed development, it is recommended that the protection of the existing retained trees and the landscape planting site is a condition of any grant of planning.

4.14 SC Conservation Manager has responded indicating:

It is understood that the proposed development site comprises a 4.54ha area of agricultural land immediately north of Whittington Road, on the northern edge of Oswestry. The proposed development site has been allocated for up to 117 dwellings in the Site Allocations and Management of Development (SAMDev) component of Local Plan, adopted in December 2015, as Site OSW004 and within the development boundary for the town. The proposed development comprises 83 dwellings, together with associated access, landscaping and public open space, an electricity substation and drainage, all to be located within the allocated site boundary. In this respect, the proposed development is broadly the same as the previous submitted under ref. 20/01033/EIA, with minor amendments to the layout consisting of changes to house types on a limited number of plots.

At its nearest point, the proposed development site is located c.300m southeast, and within the setting, of the Scheduled Monument of Old Oswestry

hillfort, and two adjacent sections of Wat's Dyke (NHLE ref. 1014899). Their designation as such indicates the national importance that these monuments, and the National Planning Policy Framework (NPPF) therefore recognises that they are designated heritage assets with the highest level of significance. A Statement of Significance for the Scheduled Monument was prepared by English Heritage (now Historic England) as part of a Statement of Common Ground (SoCG) that was agreed with Shropshire Council in October 2014, prior to the examination of the SAMDev Plan. In summary, this recognises that Old Oswestry Hillfort is one of the largest and most impressive hillforts in England, in terms of the scale and complexity of its earthworks. Built, reworked and occupied over several centuries in the Iron Age as a social and economic centre for an extended community, the hillfort remains a prominent landmark in the surrounding landscape. Wat's Dyke was constructed in the early medieval period as frontier bank and ditch and statement of political control, and deliberately included the earlier hillfort in its alignment at this location. The SoCG acknowledges that the settings of the Hillfort and two adjoining sections of dyke remains predominantly rural, a factor which makes an important contribution to their significance. The Hillfort, in particular, affords prominent views to the west, north and east that are not appreciably affected by modern development. It is located close to the northern urban edge of Oswestry but to a large extent is screened from it by the small, steep and heavily wooded hill directly to the south of the Hillfort. Other than Jasmine Gardens, the urban form of the town does not extend northwards onto higher ground within views of the hillfort, which thus maintains a separateness between them.

In terms of the development site itself, it includes part of a system of World War I practice trenches (HER PRN 31654) associated with the former Park Hall Barracks site. The archaeological character of these trenches was evaluated in 2018, which indicated that they are likely to have been truncated by later-20th and 21st century ploughing, such that no earthwork remains survive. Below ground, the surviving cut features were considered to be too narrow to have facilitated the free movement of soldiers and too shallow to have afforded any real protection, although if the up-cast was used to create parapets this would have been less of an issue. Although no finds were made that provide clear dating evidence, it was concluded that the trenches may have dated to the earlier part of the War and were perhaps later replaced by the larger systems both within the Hillfort itself and also to the east of Gobowen. Consequently, the proposed development site is considered to hold high archaeological interest for early 20th century military archaeological remains. Further archaeological investigation of the trench system is necessary to clarify their date, development and function.

The southern part of the proposed development site is also crossed by the line of the Vyrnwy Aqueduct (HER PRN 21491): a recently refurbished late Victorian and mid-20th century high pressure water main carrying water from the reservoir at Lake Vyrnwy to supply Liverpool. It is understood that work began on the

Vyrnwy Dam and the associated Aqueduct in 1881 and that the water supply reached Liverpool in 1891. Originally comprising two 42inch diameter pipes, a third pipe was laid between 1926 – 1938. Both construction projects involved large scale cut and fill operations that will have caused a high degree of disturbance and truncation of any earlier archaeological deposits across the southern part of the proposed development site.

In addition, the Portable Antiquities Scheme (PAS) have recorded numerous small finds made by metal detectorists within the wider surroundings of the hillfort. These include finds dating to the later prehistoric and Roman periods which provide evidence for the wider utilisation of the landscape prior to, during, and in the centuries immediately after the Hillfort was in use during the Iron Age. Finds have been recorded from within the area of the proposed development site itself which are of medieval and post-medieval date. These items comprise a number of coins, together with a silver medieval brooch and a post-medieval copper alloy pipe tamper, all of which are likely to represent casual losses during routine activity within the agricultural landscapes of the periods.

RECOMMENDATION:

The following advice is provided as a joint consultation response on behalf of the Historic Environment Team.

The principle of developing SAMDev site OSW004, specifically in relation to impacts on the significance of the Scheduled Monument Old Oswestry Hillfort, and two adjacent sections of Wat's Dyke, was considered in detail by the Planning Inspector in her Report of October 2015 on the Plan Examination at paragraphs 233 – 245 (pgs 55-59). The relevant extracts from the Inspectors report are available in full on the Council's website at: -

*<https://www.shropshire.gov.uk/media/8232/samdev-plan-inspectors-report.pdf>
It is understood that the Inspector's considerations and conclusions regarding this site remain a significant material planning consideration when determining the current planning application. Consequently, a summary of her findings is provided here.*

The Inspector begins (para 233-236) by outlining the heritage significance of Old Oswestry Hillfort and the associated sections of Wat's Dyke. She explicitly recognises (para 234), as required by Paragraph 132 of the National Planning Policy Framework as it existed at the time (and now covered by paras 199 and 200 of the Framework), that as a Scheduled Monument the Hillfort is a designated heritage asset of the highest significance, such that great weight should be given to its conservation. She then outlines the requirements of Paragraphs 133 and 134 of the Framework at that date (now paras 201 and 202) in relation to the categories of 'substantial harm' and 'less than substantial harm' to heritage significance.

At paragraph 237 of her Report the Inspector summarises the locational characteristics of OSW004, noting that it is situated adjacent to an existing industrial development (immediately to the west) and opposite existing

development on the opposite side of Whittington Road. In paragraph 238 she indicates that the site promotor had provided a Heritage Impact Assessment that accorded with the relevant national guidance on the setting of heritage assets. The Inspector states that "Views to and from the Hillfort undoubtedly contribute to its significance and aesthetic value". She goes on to recognise that there are contrary opinions on the degree to which development of OSW004 would disrupt these views and indicates that she has considered these. Indeed, she acknowledges elsewhere (paras 233 and 244) that at the time she was aware that the development of this site was strongly opposed, as remains the case in respect of the current application.

In paragraphs 239- 241 of her Report the Inspectors undertakes her own assessment of the impacts that the development of OSW004 would have upon the setting, and thereby the significance, of the Hillfort. She begins (para 239) by stating that the development on OSW004 "...would not impinge on the rural setting of the Hillfort to the west, north and east.". The Inspector notes (ibid.) that Oldport Farm is situated a short distance south-east of the hillfort and that the "...relatively modern agricultural buildings have some impact on the immediate rural setting of the Hillfort...".

She goes on in para 240 of her Report to maintain that it would be "...seen from the Hillfort against the existing urban edge, in views to the south-east.". Because the site is lower lying than the land to the west of the B5069 (Gobowen Road), the Inspector acknowledges that there would be a roofscape presence in views to the south-east from the hillfort, such that careful design consideration would be necessary. In the south-western corner of the site, however, development would be partially obscured by the existing industrial development. The Inspector concludes (ibid.) that "...long reaching views over the development would be maintained...", and that any intrusion upon the existing views from the Hillfort would be minimal, such that the "...significance of the designated heritage asset would not be compromised."

In terms of the views towards the hillfort, in paragraph 241 of her Report the Inspector observes that the relatively flat topography and well-maintained hedgerows between Whittington Road and the Hillfort facilitate uninterrupted views towards the hillfort both on the approach to Oswestry from the A5 and in the opposite direction. As such, she acknowledges that these views would be impacted where OSW004 abuts Whittington Road. She does, however, note that commercial development which impinges on the rural setting of the hillfort is already present along this section of road, and concludes (ibid.) that the development of OSW004 "...would not extend the built development of Oswestry any further along Whittington Road than currently exists".

In paragraphs 242 and 243 the Inspector outlines a set of design principles, derived from the SoCG between English Heritage and Shropshire Council, which would need to be met to minimise impacts on the setting of the Hillfort and therefore make development acceptable. In paragraph 244 she gives considerable weight to the fact that Historic England did not maintain an objection to OSW004. Critically, the Inspector finds (ibid.) that, subject to these

design principles set out in the SoCG being adhered to, the development of OSW004 would "...lead to less than substantial harm to the significance of a designated [heritage] asset."

As required by the NPPF, at paragraph 245 of her Report the Inspector then undertakes a balancing exercise in which she weighs the public benefits of the proposal in relation to the various other policy considerations that applied at that time. Having done so, the Inspector concludes (ibid.) by stating that she is "...satisfied that the public benefits of the proposal would clearly outweigh the less than substantial harm to Old Oswestry Hillfort heritage asset and any other harm that might arise."

It is important to recognise that the Inspector's finding of less than substantial harm to the significance of the Hillfort, in relation to her assessment of the impacts the develop of OSW004 would have, aligns with the distinction between substantial and less than substantial harm that has been established through case law. In this respect, the law remains the position established by Mr Justice Jay in Bedford Borough Council vs SSCLG and Nuon UK Ltd [2013] EWHC 2847, in which he observed that (at para 25): -

"...in the context of physical harm, [substantial harm] would apply in the case of demolition or destruction, being a case of total loss. It would also apply to a case of serious damage to the structure of the building. In the context of non-physical or indirect harm, the yardstick was effectively the same. One was looking for an impact which would have such a serious impact on the significance of the asset that its significance was either vitiated altogether or very much reduced."

Consequently, 'substantial harm' is established as a high test. This is emphasised in the relevant section of the National Planning Practice Guidance (NPPG), which also states that it is "...the degree of harm to the asset's significance rather than the scale of the development that is to be assessed." (Paragraph: 018 Reference ID: 18a-018-20190723).

When assessing the current planning application, and in addition to the Inspectors Report from the SAMDev examination and case law, officers have given due consideration to Policies CS6, CS17, MD2, MD13 and S14.1/S14.1A of the Local Plan; the policies contained in Chapter 16 of the NPPF (July 2021); the guidance contained in the NPPG; and Historic England's Historic Environment Good Practice in Planning Advice Notes 2 (Managing Significance in Decision-Taking in the Historic Environment) and 3 (The Settings of Heritage Assets) and Advice Note 12 (Statements of Heritage Significance: Analysing Significance in Heritage Assets).

In relation to the requirements set out in Local Plan (SAMDev) Policies MD13 and S14.1/S14.1A and Paragraph 194 NPPF, the Applicant has submitted a Heritage Impact Assessment by Warwickshire, an Archaeological Evaluation by Warwickshire Archaeology, an Archaeological Statement by Castlering Archaeology), and a Landscape and Visual Impact Assessment (Rev A) by Pegasus Group. It also includes a Planning Statement by Evolve Planning and a Design and Access Statement by Pegasus Group, both of which seek to explain how the development has been designed in response to the design

principles set out in the SoCG and Local Plan (SAMDev) Policy S14.1/S14.1A.

Shropshire Council

The Archaeological Evaluation report that accompanies the application supplements the previously available information for the proposed development site in order to provide a full archaeological assessment of it. The proposed development site was included within a wider area of land that was subject to an Archaeological Desk Based Assessment by Castlering Archaeology in 2006; a sample geophysical survey by GSB Prospection in 2007, which provided data for a significant proportion of the proposed development site; and a trial trench evaluation by Oxford Archaeology North in 2009, which included five evaluation trenches located within the current proposed development site boundary. Parts of the site were also subject to an archaeological watching brief during the laying of a new water main in 1992, and included as part of the desk based assessment prepared for the Vyrnwy Aqueduct refurbishment works in 2010. Taking account of the easement for the aqueduct, the 2018 evaluation trenches were therefore located to test geophysical anomalies that were not investigated in 2009, including the WWI practice trench system, together with 'quiet' areas and areas outside of the geophysical survey areas. The evaluation located and characterised the WWI trench system as described above. However, no features or deposits of an earlier date, including of prehistoric date, were found during in either the 2018 evaluation or the earlier interventions.

In terms of its design, the proposed development is located wholly within the allocation boundary for OSW004 and, at 83 units, is also for 34 fewer than the provision set out in Local Plan (SAMDev) Policy S14.1/S14.1A. The density of the site layout is therefore lower than would have been necessary if the maximum allocated number of 117 units were proposed, with landscaping, amenity space and the attenuation basin used to break up the massing of the development, as required by the design guidelines set out in the policy. The layout is set back from Whittington Road due to the easement for the Vyrnwy Aqueduct and the resultant area used for public amenity space, whilst transitional planting and further public amenity space with circulatory paths would be provided on the northern boundary, including the part of the site closest to the hillfort, in order to provide a landscaped boundary with the surrounding countryside. An axial pedestrian access from Whittington Road provides linkages between these areas of amenity space and an observation point with interpretation boards and seating is proposed at its northern end, which will provide views out towards the Hillfort and the surrounding countryside, whilst other views of the monument will be gained from the other paths within the northern amenity spaces and some dwellings. It is therefore considered that the requirements set out in items 1 and 2-5 of the development guidelines set out in Local Plan Policy S14.1/S14.1A are met by the amended scheme. A Landscape Management Plan has been submitted with the application that other internal consultees will comment upon.

It is understood that due to a change in the legal status of the railway line since the adoption of the SAMDev plan in 2015, it is not currently possible to create

the footpath linkage to Gobowen Road. For the same reason it is also not possible to create a pedestrian and cycle linkage back to the town centre. In the northern part of the proposed development site the plots face outwards towards the amenity space. This will create views out from the development into the surrounding countryside, as well as providing surveillance over, and a sense of ownership of, these public areas. Whilst the units on the northwestern corner would extend north of the portal framed buildings on the adjacent industrial site they would not extend northwards beyond its built northern boundary. As required by SAMDev Policy S14.1/S14.1A, the density and porosity of the proposed layout will provide glimpses of the hillfort from within the site. None of the units will be higher than two stories and garages will be single storey, and together with the mixture of house types, this is intended to break up the massing of the development and provide for a varied roofscape. The Design and Access Statement indicates that the proposed brick selection is intended to colour match the vernacular buildings elsewhere in the town, whilst a muted palette of dark brown and black roofing materials is proposed. In terms of wider views to and from the Hillfort, and as envisaged by the Planning Inspector in her Report on the SAMDev plan, the site would sit against the existing urban edge of the town when viewed from the hillfort. Because it is contained within the allocated site boundary, the proposed development would not extend into the open countryside, which both the SoCG and the Applicant's Heritage Impact Assessment recognise make a greater contribution to the monument's significance.

The Landscape and Visual Impact Assessment includes, at Appendix D, photomontages which illustrates a 'before' and 'after' view from the southeastern part of the hillfort. As the Inspector anticipated, the development is readily visible in this view, although it's south-western end is partially screened by the adjacent industrial development and the long reaching view over the proposed development site would remain. The proposed roofscape material are, however, recessive by comparison with the existing commercial development south of Whittington Road and neither does the development protrude north of the modern sheds around Oldport Farm, west of the Gobowen Road.

In terms of the views towards the monument from western end of Whittington Road, and again as Planning Inspector anticipated would be the case in her Report on the SAMDev plan, Landscape and Visual Impact Assessment indicates that this will be changed, such that currently uninterrupted views of the monument curtailed despite the layout being set back from the road frontage. Views would still be possible from further along Whittington Road, near the roundabout on the A5. However, as a consequence to these changes to the existing unimpeded views of the hillfort from the section of Whittington Road adjacent to the proposed development would be affected and some harm to its significance of the monument would arise as a consequence.

In their consultation response of 1 March 2023, Historic England state that, as per their advice on the previous application (20/01033/EIA), they consider

“...that the view from Whittington Road towards Old Oswestry Hillfort would be substantially changed by development that will introduce new built form, albeit set back from the road, and that the proportion of the view affected would be relatively extensive.” As a consequence, Historic England advise that they “...assess that the impact of the development within the setting of Old Oswestry Hillfort, would be to cause less than substantial harm to its significance.” As such they advise the local planning authority should apply the tests set out in paragraphs 199, 200 and 202 of the NPPF.

Taking account of Historic England’s advice and the legal definition of substantial harm as set out above, officers consider that the level harm that would arise to the significance of the Scheduled Monument as a consequence of the effects upon its setting would be consistent with that which Planning Inspector envisaged would arise when allocating the site. As such, officers concur that the proposed development would cause less than substantial harm to the significance of the hillfort as a Scheduled Monument. The decision taker is therefore directed to the tests set out in paragraphs 199, 200 and 202 of the NPPF.

Consequently, it is advised that the decision taker must ensure that they take the requirements set out in Policy MD 13 and the development guidelines set Policy S14.1/S14.1A of the Local Plan are met or can be secured by condition; and that the tests set out Paragraphs 199 and 200 of the NPPF are fully taken into account when undertaking the planning balance in relation to the tests set out in Paragraph 202. If, after doing so, the decision taker considers the public benefits of delivering the proposed number of houses on this site would outweigh the identified harm to the hillfort as a Scheduled Monument, such that they are minded to grant planning permission, it is recommended that appropriate planning conditions as set out below are applied to minimise the impact on the setting of the Hillfort (other internal consultees will advise conditions in relation to the Landscape Management Plan).

In addition, given the archaeological interest on the development that arises from the presence of WWI practice trenches, and in line with Policy MD13 of the Local Plan and Paragraph 203 and 205 of the NPPF, it is advised that that a programme of archaeological work is made a condition of any planning permission for the proposed development. This should comprise a strip, map, and record exercise focused on the practice trench system that aims to determine its date and function. This programme of work should also include an outreach programme maximises the opportunity to make the results available to as wide a public as they become available, including providing access to the site itself whilst the work is underway via organised open days/ site tours. An appropriate planning condition is advised below.

Suggested Conditions:

Details of External Materials:

No development approved by this permission shall commence until details of the roofing materials and the materials to be used in the construction of the

external walls shall be submitted to and approved in writing by the Local Planning Authority. The development shall be carried out in complete accordance with the approved details.

Reason: To ensure that the impacts of the development on the setting of designated heritage assets are minimised.

Lighting:

No development approved by this permission shall commence until a lighting design that minimises skyglow has been submitted to and approved in writing by the local planning authority. The lighting shall be carried out in complete accordance with the approved details

Reason: To ensure that the impacts of the development on the setting of designated heritage assets are minimised.

Archaeology:

No development approved by this permission shall commence until the applicant, or their agents or successors in title, has secured the implementation of a phased programme of archaeological work in accordance with a written scheme of investigation (WSI). This written scheme shall be approved in writing by the Planning Authority prior to the commencement of works.

Reason: The development site is known to have archaeological interest.

4.15 **SC Highways** have responded indicating:

The site is an allocated site in the SAMDev and therefore as a matter of principle the development of this site is considered acceptable both in terms of land use and gaining a suitable means of access to the site from Whittington Road.

It is noted that whilst National Highways (NH) initially raised comments regarding the impact of the development traffic on Whittington Road roundabout, NH have subsequently issued further comments and raise no objection to consent being granted and have not sought to impose any planning conditions.

Following discussion with the applicant company, the General Layout Drawing has been updated to clarify carriageway widths, footway widths, radii and visibility splays. These were requested to provide a check upon the layout being suitable for adoption under a Section 38 Agreement and I can confirm that the layout is acceptable. This needs to be viewed alongside the Planning Layout drawing, which highlights the proposed ghost island junction arrangement on Whittington Road, which includes a pedestrian crossing refuge as part of its design. This is shown in further detail within the Proposed Site Access drawing contained within the Transport Assessment (TA). Again this would be subject to the Section 278 Agreement technical checking and Stage 2 and 3 Road Safety Audits.

AGENDA ITEM

- Land North Of Whittington Road

The application, as indicated above, is supported by a TA which concludes that the development traffic can be adequately catered for on the highway network. This is the view also and supported by Highways. There are no highway safety or capacity grounds that would justify an objection to consent being granted.

Highways therefore raise no objection to the granting of consent subject to the following Conditions being imposed:-

- *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 Whittington Road ghost island junction to serve the development 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 highway safety.**
- *Upon the development hereby permitted being first occupied the Travel Plan shall be implemented in accordance with the approved details: the Travel Plan shall therefore remain in force for the lifetime of the development.
Reason: *To promote sustainable travel in the interests of reducing car born traffic.**

*In respect of the above please can I ask that the approved plans include the **General Layout Drawing the Planning Layout drawing and the Proposed Site Access drawing contained within the Transport Assessment (TA)***

4.16 **SC Planning Policy** have responded indicating: No response received.

4.17 **Public Comments**

4.18 One hundred and twenty eight letters of objections have been received from members of the public. Key planning related issues raised can be summarised as follows:

- Negative detrimental impacts on surrounding public highways as a result of an increase in vehicular movements.
- The proposed development site is located too close to the Hill Fort Site.
- None of the proposed houses are carbon zero.
- Site lacks adequate connection links to public transport.
- There will be additional strains on surrounding public highways.
- Site is located too close to the Gobowen railway line
- Oswestry has an oversupply of potential buildings suitable for use in relation to affordable housing.
- Duty to protect ancient monuments for future generations.
- Too large of a development in consideration of local infrastructure.
- Cambrian Heritage Railway are exploring the re-opening of the Gobowen route of the railway and this development could impact on its future use in relation to the national rail network.
- Developments should demonstrate appropriate weight to the significance and setting of the old Oswestry Hillfort.
- The application is substantially the same as the previous application on site subsequently refused planning permission.
- Lack of local infrastructure to support the resulting development and future occupants of the dwellings
- Loss of high quality agricultural land.
- Overwhelming public opposition to the development.
- Cumulative impacts with existing development.
- Proposal not considered to be in accordance with either local plan policies or the NPPF.
- The proposal exceeds northern limit for development as set out in SamDev and the road layout indicate that further expansion beyond this boundary is intended.

4.19 A letter of objection has been received from a campaign group set up to oppose the application for residential development. The main broad of the text as set out in the objection is as follows:

OBJECTIONS FROM HOOOH – Hands Off Old Oswestry Hillfort Heritage issues and non-compliance with NPPF

AGENDA ITEM

Land North Of Whittington
Road

- *No consideration has been given to the cumulative effects of the proposals, that is, how the altered landscape will add to previous harm resulting from the erosion of the hillfort setting from northwards creep of the town. This area was previously respected by Council planning, which used The Coppy as a natural screen for earlier housing development. The decision now to develop beyond The Coppy sets a worrying new precedent for future proposals.*
- *Contrary to NPPF para 174, the application would adversely affect a valued and historically charged landscape that provides a visual link between the scheduled monuments of Old Oswestry and Wat's Dyke with Oldport, Park Hall, and Whittington, and the ancient road connecting them. The existing rural landscape enables the appreciation of the hillfort's wider heritage connections through its setting. This would be radically changed by the proposed housing which would create an urban suburb devoid of historical resonance and prevent future appreciation. Gillespies' Shropshire Landscape & Visual Sensitivity Assessment (2018) identifies this landscape east and south-east of Old Oswestry as valued, stating: views experienced are of high sensitivity to change arising from new housing..'*
- *Contrary to NPPF para 194, the scale of the development fails to recognise the significance of Old Oswestry hillfort and the contribution that its setting makes to that significance.*
- *The proposals would see town expansion into a crucial area of Old Oswestry's setting, visually triggering the start of enclosure of the hillfort in its south-eastern landscape. Contrary to NPPF 199, this does not take proper account of the significance of Old Oswestry as a designated heritage asset nor give sufficient weight to the asset's conservation, especially when 'the more important the asset, the greater the weight should be'. This applies even if the impacts of development are assessed as constituting 'less than substantial harm to its significance'.*
- *Contrary to NPPF para 200, the application does not provide 'clear and convincing justification' for loss of significance to a designated heritage asset. The proposal would cause harm to the heritage significance of the scheduled monument Old Oswestry hillfort through urban encroachment and destruction of a key part of its historical and landscape setting. The LPA should refuse consent, because it cannot be demonstrated that the harm/loss is necessary when houses can be built elsewhere, given that more than sufficient housing land has been identified for Oswestry's future growth, including east of the A5 bypass.*
- *The proposals would devastate the existing views of the hillfort from the B4580 Whittington Road, which allows the monument to be appreciated and experienced in its landscape. Contrary to NPPF para 206, development would not 'enhance or better reveal' the significance of the hillfort or 'preserve those elements of the setting that make a positive contribution to the asset'.*

Key stakeholders/heritage organisations have objected

• *The following stakeholders/heritage organisations have so far objected: Oswestry Town Council, Oswestry & District Civic Society, Oswestry & Border History & Archaeology Group (OBHAG), Cambrian Heritage Railways, The Prehistoric Society, Council for British Archaeology, Historic Buildings & Places (aka Ancient Monuments Society).*

Fails to meet SAMDev policy Oswestry S14 and underpinning Statement of Common Ground (SoCG)

Exceeds northern limit for development

• *In the SoCG underpinning S14, Historic England (formerly English Heritage) and Shropshire Council agreed that: 'The layout should ensure that new development does not protrude to the north of the existing built development, to the west of the allocation.' In comments to the planning proposals in 2020, Historic England clarified that this refers to the factory buildings at Traditional Products. This northern limit (see image below) was intrinsic to the Inspector's assessment of less than substantial harm and approving the OSW004 allocation in SAMDev. The proposals significantly exceed this building line, with around half of the dwellings either wholly or partly breaching it.*

No access over railway

- *Due to legal conditions that would prevent access across the Cambrian railway line, the proposals do not meet the S14 requirement to provide 'pedestrian and cycle path links to the former railway and a new footpath link between Whittington Road and Gobowen Road to improve access towards the Hill Fort'. Therefore, the planning application fails to provide a key public benefit of access to the hillfort that gave weight to the Inspector's decision to approve the allocation of OSW004 for housing. NB: Details about the legal situation and other issues concerning the railway line are fully explained in the objection submitted by Mr Rob Williams on behalf of Cambrian Heritage Railways.*
- *The development faces other significant material issues due to its proximity to the Cambrian line; the proposal continues to refer to the railway as 'disused' and does not consider the potential noise, vibration, safety and other hazards and problems of being sited next to an operating railway. The landscape and access routes leading towards the north and northwest of the site are designed around the principle of gaining access over the railway, presenting potential dangers to those expecting or attempting to cut across to Gobowen Road towards the hillfort (which is not accessible to the public from the east, in any case).*

No associated works to Whittington Road and Gobowen Road junction

- *The proposals do not include any detail of associated works to meet the S14 requirement that development is 'subject to improvements to the Whittington and Gobowen Roads junction'.*

Lack of appropriate regard for Old Oswestry's significance

- *The large scale of the development (including 83 houses, drives, roads, substation, pumping station) constitutes a substantial change to the near setting of a scheduled monument of high national significance. This*

conflicts with the S14 requirement that: 'Development should demonstrate appropriate regard to the significance and setting of the Old Oswestry Hill Fort.'

- *In its Statement of Significance for Old Oswestry (within the SoCG), Historic England stated: 'The setting of the Hillfort is essentially rural with prominent views to the east, west and north which are not appreciably affected by modern development. Maintaining this rural setting is important in allowing the significance of the site to be better understood.' The masterplanning, housing grid, design and density remain wholly inappropriate; they do not enable the rural setting to be maintained nor the significance of the site to be better understood. The protection of setting to a site of such national archaeological importance should be afforded the greatest weight. Old Oswestry is regarded as a unique type site for the understanding of the Iron Age, equating to the same significance that Stonehenge and its landscape have for the Neolithic period. This high status is evidenced by reference to it among archaeology academics as 'The Stonehenge of the Iron Age'. Expert testimony of Old Oswestry's importance is also provided in an open letter signed by 12 leading academics of British archaeology (see Appendix item 1).*

Disruption of views

- *The masterplan layout continues to form significant obstruction to views of the hillfort from Whittington Road and within the site. As well as extending significantly beyond Historic England's northern limit for development within OSW004, the density and height of the built form as well as tree levels to mitigate development detract wholly and substantially from the setting of the hillfort and views to and from the hillfort. This fails to satisfy the SoCG requirement that 'Disruption of views to and from the Hillfort should be minimised as they contribute to its aesthetic value.' It also does not meet the policy S14.1a requirement that master planning should ensure that 'long distance views to and from the Hillfort within its wider setting are conserved'. The built form and tree scheme will screen a large percentage of views of the hillfort currently available from Whittington Road (B4580).*
- *The proposal provides for an 'Observation point equipped with benches and interpretation boards at the end of the tree-lined pedestrian avenue, to enable greater appreciation of the Hillfort.' This observation point occupies one of the lowest-lying parts of the site, so would compound the barrier to views from existing trees and the Oldport farm buildings alongside Gobowen Road. It would also create the risk of extra traffic entering the site, with attendant parking and safety problems, due to visitors potentially accessing it for views of the hillfort. There is also the added concern they may expect to gain access to the hillfort from the estate, leading to potential trespass and safety issues if they should attempt to cross a 'live' railway line and reach the hazardous Gobowen Road. 'Greater appreciation' of the hillfort would be categorically better served by preserving its existing setting*

and the precious separation that remains between Old Oswestry and the town.

Overwhelming public opposition to loss of a valued landscape

- *Since 2012, there has been considerable and long standing opposition from the public and key stakeholders/consultees to development on OSW004, including 12,000+ petition signatures. This is compelling evidence that the greater public benefit comes from the conservation of what is a landscape of high value to the community, not from housing that damages the hillfort's setting and significance and can be accommodated elsewhere. Old Oswestry hillfort and its landscape are much loved and appreciated as an asset of high community and cultural value. This is because of its national heritage and archaeological importance, recreational amenity, environmental beauty, and sense of escape enhanced by 360 degrees views and rural context. A notable aspect of Old Oswestry's cultural and community value is the intrinsic role which the earthwork and its eastern landscape played during WW1. The plateau housed practice trenches, serving as the extended training ground for troops based at the adjacent Park Hall camp. This poignant association was marked when the hillfort was chosen for the staging of the WW1 Centenary Beacon Lighting on 11 November 2018 for Oswestry and nearby communities. The experience of all these cultural and heritage values relies on preserving the hillfort's fragile separation from the town, with no further urban encroachment into its setting.*

Inadequate assessment of heritage impacts

- *In the heritage statement, the applicant does not fairly or proportionately account for the very high national significance of Old Oswestry – heritage significance compounded by the co-located scheduled sections of Wat's Dyke. They also under-assess the contribution of setting to this significance. This has resulted in the following: -An underestimation of the degree of harm from the OSW004 development on the hillfort's setting and on its significance. The documents assess that only 'some' harm will be caused, including harming 11% of views to/from the hillfort – this is 'substantial' given the hillfort's national significance while representing only part of the harm/impacts. In fact, the development would affect viewpoints from the hillfort spanning 180 degrees around the plateau, effectively 50% of views. -The masterplan and proposed development do not secure 'appropriate integration of development within the sensitive historic landscape', contrary to the S14 policy.*
- *The photomontage of the view from the hillfort (see below) clearly shows that the overriding and catastrophic visual impact of the proposed housing estate will be to fuse with, and magnify, the overall dominance in the view of housing and urbanisation lying beyond the B4580 Whittington Road, connecting it right through to the Oldport Farm infrastructure. The existing open fields of OSW004 and clear line provided by the Whittington Road are crucial in keeping the urban mass in visual abeyance. But the proposed*

development, tapering towards the hillfort, will cause the eye to read the town right through to the farm edge lying just 80m or so from the hillfort base.

- *This green separation is an important function of the setting in terms of the hillfort's landscape presence and appreciation, as referenced in the SoCG in which Historic England says: 'The urban area does not, apart from near Jasmine Gardens, extend northwards from the town onto higher ground in the view of the Hillfort, which enables a separateness to be maintained between them.' The development constitutes a significant incursion into the hillfort's south-eastern setting, as well as its open aspect and separation from the town, all of which make an important contribution to Old Oswestry's landscape presence and significance as a high order national heritage asset.*

Conflicts with other local planning policy and updated assessments

- *Fields shared with OSW004 and others located across the hillfort's west/east landscape have been excluded from allocation for housing development by Shropshire Council until at least 2036 in the local plan review, due to their heritage importance as part of the hillfort's setting (see email from May 2019 following HOOOH meeting with Shropshire Council, Appendix item 2). OSW004 would also meet these criteria if it had not been allocated back in 2015. This makes the site unsustainable in relation to updated strategic planning and landscape assessments that are steering development away from the hillfort and to the east of the A5 bypass.*
- *The design fails to comply with Oswestry's 2020 plan, since it does not provide an attractive gateway to the town along Whittington Road. Instead, first impressions will be dominated by a modern housing estate, like many other towns, rather than open views to the unique spectacle of one of Britain's finest hillforts and the town's most distinctive asset and outstanding landmark.*
- *The viability and sustainability of development at OSW004 is dependent on the delivery of major highways infrastructure changes at regional level to the A5 bypass, for which there are no start dates and may be years away.*
- *Shropshire Council's updated Landscape and Visual Sensitivity assessment for northern Oswestry (2018) attaches high value to the area which includes the hillfort, its surrounding landscape and south-eastern setting across to the bypass. It states: 'Any development within this landscape would be highly noticeable within the view and could result in the degradation of the setting of heritage assets...' and 'overall the sensitivity of the landscape to change as a result of development for housing is high...' OSW004 would unavoidably form part of the view and impressions of the landscape assessment, especially when OSW004 truncates the established boundaries of two fields.*
- *In its 'Site Assessments: Oswestry Place Plan Area (SAOPPA) November 2018', Shropshire Council rejected the land parcel (OSW058) bordering OSW004 as a preferred site for housing allocation within its Local Plan*

Review to 2038. The reason given was: 'Development would have an unacceptable impact on the setting of the Hillfort and other heritage assets.' This updated assessment can be materially argued for OSW004; the spatial relationship of both OSW004 and OSW058 with the hillfort are very similar, in terms of distance, size, visibility within its setting, and the comparative impacts on the significance of the monument if they were built on. During SAMDev, the OSW004 allocation originally included land at OSW058, meaning that if the heritage sensitivity of the 2018 assessment had been applied then, the OSW004 allocation would have been ruled out even before 'preferred options stage'. This reveals a serious disparity between old and new assessments underpinning strategic planning in Shropshire for the setting of a nationally significant monument, and an inconsistency adding weight not to approve development on OSW004.

- *Housing delivery on the Oswestry Eastern SUE has been serially postponed, reduced and a proportion of delivery has now been extended beyond the SAMDev period of 2026 leveraged through the current local plan review to 2036. This sets a precedent for housing delivery from a site outlined in SAMDev to be amended with reference to the local plan review and for a downward revision or postponement of housing delivery.*

Unsustainable due to loss of agricultural land and traffic issues

- *Development would use high quality Grade 2 & Grade 3a soils (as per Agricultural Land Classification England) which are regarded as 'best and most versatile' agricultural land and soils. This is not sustainable under government policy promoting local and national food supply security, and when alternative housing land is available elsewhere.*
- *Incorporating some 200 car spaces, the development will add to existing congestion (and pedestrian safety) issues along Whittington Road (B4580) and at its junction with the Gobowen Road (B5069) for which there is no apparent mitigation. Professional assessments of traffic volumes (submitted with previous planning application) at the B4580/B5069 junction show them to be very close to exceeding acceptable levels, even before the OSW004 development.*
- *The access/exit road to the development would emerge onto Whittington Road at a point just 50 metres from the Harlech Road junction on the opposite side, creating further safety issues for vehicle users and pedestrians.*

Benefits of 'no development' outweigh developing OSW004

- *The benefits of no development on this site far outweigh the claimed benefits. First and foremost, no development would ensure that we conserve the landscape setting integral to one of England's best-preserved Iron Age hillforts and most important archaeological monuments with no further loss from urbanisation. No development maximises the potential to advance our account of British prehistory through a hillfort and landscape considered to be as important to the understanding of Iron Age society as Stonehenge is for the Neolithic period. No change would meet the strongly*

stated view of the local community to conserve not build, especially when houses can be accommodated on sites elsewhere. No development would preserve the heritage tourism and associated economic potential of Old Oswestry in line with current local initiatives and county policy objectives (see points 46-48). With major community support for the sensitive conservation of Old Oswestry's unique attributes and national importance, its surrounding hinterland landscape should be appropriately protected as the hub of the town's northern historic landscape - the Oswestry Heritage Gateway (see Appendix item 3).

Not reflective of latest housing data/position

- *The claim that housing on OSW004 is essential to meeting housing targets. However, we know from the current local plan review to 2038 that the town's housing targets have been heavily reduced – hence the proposal for 229 dwellings including just 2 new site allocations to meet the recalculated housing need to 2038, even though many new sites came forward for consideration and Shropshire Council is now pursuing housing delivery east of the A5 bypass. The Council has also relaxed the delivery schedule from the Oswestry Eastern Sustainable Urban Extension (SUE) so that it goes beyond the current plan period of 2026 – another signal that the town's annual housing delivery targets have been unrealistic and are being watered down in the current review which will supersede the SAMDev delivery period and recalibrate targets to 2038.*
- *Over the past 2 years or so, there has been a healthy number of housing completions as well as new planning applications/approvals for dwellings in Oswestry, including the greenlight for 600 houses on the SUE and progress with a separate application for 150 homes also on the SUE. It is very possible that the current and prospective level of builds will easily meet Oswestry's housing targets, without developing OSW004, during the current overlap with the revised local plan period.*
- *Oswestry has alternative land coming forward that removes the imperative to build at OSW004. As a result of the local plan review, additional land has been identified for housing east of the bypass at Park Hall, keeping town growth away from the hillfort. Also, a grant supported project aims to release land for over 1,150 new homes in Oswestry over the next 10 years, including previously unviable greenfield (see government report: <https://www.local.gov.uk/development-oswestry-growth-corridor>). This report also mentions about Oswestry that: 'The lower land values have encouraged a much greater proportion of affordable housing completions in the town, 96 affordable dwellings in 2017/18, on sites allocated for open market housing.' While this data suggests affordable homes delivery is healthy, the argument to build at OSW004 claims that Oswestry is in great need of affordable housing (although the applicant in fact would only be delivering 10% affordable homes within the scheme).*
- *It is noted that while this is a single application, it is likely to be delivered in two phases. Future housing targets for Oswestry are being scaled back in*

the Local Plan review, and we are experiencing an extended period of economic upheaval as well as uncertainty over housing delivery with the impacts of COVID-19, Brexit and cost of living crisis. This may pose a risk of delay to the implementation of Phase 1 and an even greater risk to Phase 2. If Phase 2 was not completed for considerable time, or at all, then the current unfinished edge of Phase 1 would achieve none of the required landscape buffer and hillfort viewing points etc of the S14 policy masterplan. With its unfinished roads and pathways, it would create an extremely incongruous, un-designed edge that would especially spoil views from the hillfort.

- The claim that OSW004 is only one of two greenfield sites in Oswestry suitable for development, the other being the Oswestry Sustainable Urban Extension (SUE), is not an imperative to build here. Government policy is to prioritise housing delivery on brownfield and pursue the refurbishment/regeneration of upper floors in town centre properties. There is also impetus to make available long-term unoccupied properties of which there are several hundred in Oswestry.*

Conflicts with tourism/heritage focus of county & local economic strategies

- The town's historic northern gateway centred around Old Oswestry and Wat's Dyke is rich in multi-phase heritage spanning from Neolithic to Anglo-Saxon right through to the Victorian era and WW1/WW2 military use. Coined the Oswestry Heritage Gateway, it has been promoted and welcomed by numerous stakeholders as an appealing and impressive concept for tourism development. A conservation plan was prepared for Old Oswestry in 2010, funded by English Heritage: 'Old Oswestry is a hugely significant archaeological resource. Its importance is derived not only from its prehistoric legacy, but also from its contribution to later periods of history. Its incorporation into Wat's Dyke marks a chapter in the formation of early medieval Britain and it played an important role in the first of two world wars that so dramatically shaped the world in which we live. Old Oswestry is also important for the richness of its wildlife and is a key component in maintaining the biodiversity of the local area. The profile of our Iron Age hillforts and prehistoric landscapes has been boosted by the publication of the UK and Ireland 'Hillforts Atlas'. The recent excavation of Nesscliffe hillfort and bid to reinforce its heritage and environmental protections is a sign of the importance and value placed on Shropshire's prehistoric archaeology, Iron Age hillforts and associated landscapes. With the obvious potential and desire to make more of this very rich period within the County's heritage, it would seem essential to be conserving and highlighting Shropshire's outstanding hillfort type site, Old Oswestry. This internationally admired hillfort is so pivotal to unlocking deeper understanding of prehistoric Britain that it has been acknowledged as the 'Stonehenge of the Iron Age'. The OSW004 site is part of Oldport Farm, which effectively comprises most of the hillfort's near landscape setting and*

is listed as one of Shropshire's historic farmsteads. Preservation of the hillfort's setting also conserves the farming tradition that has been the prime activity surviving in its fields from prehistory right through to its latter-day role. The public has indicated that they strongly favour conserving the hillfort's environs in promoting the town's heritage tourism offer as the hub of the Oswestry Heritage Gateway (see Appendix item 3).

- *Current initiatives for economic regeneration in Oswestry, including the Oswestry Business Improvement District (BID) and High Street Heritage Action Zone, seek to capitalise on local heritage and environmental qualities. Objectives of the Oswestry BID include building on the town's rich heritage for tourism and developing a diverse and rewarding environment. The Oswestry Place Plan (2015-2016) states the objective "Look at opportunities to make more of the Oswestry Hill Fort". Contrary to these objectives and vision, development on OSW004 would negatively affect Old Oswestry's outstanding contribution to the town's special character and tourism potential.*
- *Development on OSW004 reduces Old Oswestry's outstanding contribution to the County's special character and tourism potential so conflicts with the following: i) Shropshire's Economic Development Strategy talks about using Shropshire's historic assets to help promote economic growth and 'nurture them to ensure they are sustained for current and future generations to enjoy'. It says: 'The attractive combination we have to offer includes the mixture of market towns and within them the retail and historic cores, cultural activities, and open spaces. Our countryside offers a diverse and widely celebrated range of landscapes and offers a rich array of historic villages and farms, country houses, ancient monuments, parks and gardens, canals, rivers and wildlife sites. Their sustainable economic future is important, not least to the many businesses which trade off this offer.' It also says: 'Shropshire is a high quality location and has a generally well performing economy. It has one of the best natural and historic environments in England...Shropshire communities enjoy an exceptional high quality of life and environment, with vibrant historic market towns, an Area of Outstanding Natural Beauty, and one of the highest concentrations of historic monuments and buildings in the country. We will use these assets to attract investment and will continue to nurture them to ensure they are sustained for current and future generations to enjoy.' (ii) Shropshire's Core Strategy also points to the 'character, quality and diversity of Shropshire's natural and historic environment' being the County's 'greatest asset'.*
- *The proposed development significantly impedes the potential to grow the substantial economic returns from the promotion of the hillfort and Oswestry's northern heritage gateway for heritage tourism. We believe that Shropshire Council should have conducted a comparative economic assessment of the potential economic benefits of this versus the proposed housing in making a fair judgement of the sustainability of development.*

(Appendix s to this letter and supporting photographs are available for inspection as part of this letter of objection, available for viewing on the Council's application website.

<https://pa.shropshire.gov.uk/onlineapplications/simpleSearchResults.do?action=firstPage>

-Typing in the application reference number 23/00225/FUL where indicated.

4.20 **The Pre-historic Society** have responded to the application indicating:

The Prehistoric Society is dedicated to furthering the understanding of our prehistoric past and conserving prehistoric remains for the future. Our members are passionately interested in many prehistoric sites, collections and excavations both in Britain and abroad.

I am writing to raise concerns regarding the current planning application noted above. The Prehistoric Society has written previously, regarding development within the setting of Old Oswestry Hillfort and I wish to confirm my own opposition.

The proposed development will impact adversely upon the setting of the scheduled monument of Old Oswestry Hillfort (NHLE 1014899). The setting is extremely important for the continued enjoyment and appreciation of the scheduled monument itself; it provides context and understanding of why the monument was constructed there, and how it dominated the landscape. Modern scale development will harm the relationship of the hillfort and its setting by introducing new elements into what remained partly open landscape under modern planning decisions.

The site was clearly selected for its topography, and the hillfort was constructed to dominate the landscape; it became the most significant element, asserting the authority of the society which constructed and used it. Any proposed development within the setting of the scheduled monument must take account of this to ensure that the visual predominance is not affected; otherwise, the understanding and appreciation of the monument within its landscape will be compromised. Furthermore, the views from the monument will be compromised by infilling currently open land and increasing the mass of development to the southeast of the monument.

The current proposals clearly impact upon the setting of the monument and will diminish the impact it makes within its landscape by restricting the ability to view it clearly. The insertion of more modern buildings will adversely affect the site by hemming it in, and the incremental development will lead to its becoming an isolated island, surrounded by modern buildings, rather than being the clear and solitary focus of authority within a

wide and open landscape. The landscape and Visual Assessment document, submitted with the planning application makes it clear that the impact upon the views from the hillfort will be significant and adverse. This would degrade the significance of the asset, contrary to all guidance on the protection and enhancement of heritage assets.

We ask you again to take into consideration a number of paragraphs within the NPPF (2021 revision), when making your judgment. Firstly, section 16, underscores that 'Heritage assets are an irreplaceable resource and should be conserved in a manner appropriate to their significance, so that they can be enjoyed for their contribution to the quality of life of existing and future generations.' Paragraph 194 stresses the contribution made by the setting of heritage assets, paragraph 195 stresses that local authorities should identify and assess the significance of the heritage asset affected by a development affecting its setting. In particular, paragraph 200 states that any harm to, or loss of, the significance of a designated asset (from its alteration or destruction or from development within its setting), should require clear and convincing justification.'

Paragraph 202 notes that where the harm is less than substantial, the harm should be weighed against the public benefit of the proposal. As the current proposals affect the setting rather than the monument itself, this can be taken to impact monument significance, as such it requires clear and convincing justification. After ten years of public opposition, this do not yet seem to be forthcoming. Therefore, I urge you to weigh very carefully the significance of the monument, glorious within its landscape, against the very limited public benefits of the proposals.

I ask you also to consider the content of the Historic England guidance on The Setting of Heritage Assets (December 2017), which outlines clearly how to assess the contribution of views to the setting and therefore significance of heritage assets. Paragraph 36 in particular refers to cumulative assessment of existing and proposed development and is of specific relevance here, particularly with reference to phase 2.

Furthermore, Historic England's Conservation Principles (April 2008) place great weight on communal value in addition to evidential value, which the hillfort contains in high degree. Communal value underlines the importance of an asset to many communities, not simply the local community, but all interested parties. Old Oswestry Hillfort is more than simply a local asset, it is nationally significant and of importance and value to all those interested in Prehistory globally.

I ask you also to consider all local policies regarding the treatment and protection of heritage. Shropshire's Cultural Strategy 2021-31 underscores

the importance of your heritage assets and indeed the significant financial accrual from visitors. Development within the setting of the hillfort may ultimately make it less attractive to visitors. Development like this rarely enhances heritage.

Policy MD13 of the SAMDev states that 'wherever possible, proposals avoid harm or loss of significance to designated or non-designated heritage assets, including their settings.' I appreciate the need to provide housing for the local community, but there are other suitable allocated sites in your area, development of which will create significantly less harm to national heritage assets.

Scheduled monuments are of exceptional significance and rarity, and one quite so complete and uncompromised as Old Oswestry, ever more so. I urge you, therefore, to consider all these points, and refuse planning permission and preserve the significance of Old Oswestry hillfort for current and future generations.

- 4.21 A letter of objection has been received from **Oswestry & Border Archaeology & History Group (OBHAG)**. The letter states:

On behalf of the Oswestry & Border History & Archaeology Group (OBHAG) I am writing to object strongly to the latest set of proposals, ref. 23/00225/FUL, submitted in relation to this important site north of Whittington Road, Oswestry.

These proposals, submitted by Cameron Homes, are very largely the same as the proposals made by Galliers Homes which were rejected by Shropshire Council in March 2022. The detailed comments made by very many people and organisations in relation to that application, 20/01033/EIA, should be revisited by the Council in considering the present application.

The deep concern, local and national, expressed over several years now, in relation to development on this site, and the significant impact that development would have on the setting of Old Oswestry hillfort, should be borne in mind by the Council when they determine the present application. A decision which disregards the significance of the proposals to the hillfort would reflect very poorly on Shropshire Council's stewardship of its historic landscape.

The development proposed in these new plans, like its predecessors, would, if allowed, be to the great detriment of the hillfort and its setting. Councillors need to appreciate, and understand, the national significance of Old Oswestry hillfort and its setting, at what is effectively the gateway to Shropshire from north east Wales and to bear in mind the damage that development here will have.

The proposed development if allowed would result in substantial harm to the significance and setting of Old Oswestry hill fort, a scheduled ancient monument

AGENDA ITEM

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of national significance. Arguments set out in these proposals that the harm done would be less than substantial are unconvincing. Shropshire Council - members of the planning committee, and planning officers - need to appreciate, to realise, that Old Oswestry hillfort is truly of national significance, and that, as such, it merits greater respect, closer attention and scrutiny, than has been afforded by the present proposals, and by their predecessors, and by public decision makers. And the Council needs to appreciate that the impact of a site such as Old Oswestry on those approaching Oswestry from the east, from the A5 by-pass or from Whittington Road, depends to a significant extent upon the setting, upon the fields in which the hillfort is set. Build on those fields - build 83 houses within that setting - and the impact is diminished. And if these 83 houses were allowed, further proposals would surely follow.

These proposals fail to reflect the northern limit for new buildings previously agreed between Shropshire Council and Historic England. I understand that the proposals significantly exceed this building line, with around half of the dwellings either wholly or partly breaching it.

The present proposals also fail to address the significant highways issues that would be posed should the development be allowed to proceed. The addition of 83 houses, with, in total 239 bedrooms, on a site close to the A5 trunk road and some distance from shops, services, etc. would result in a significant increase of traffic onto Whittington Road, and onto the busy roundabout at the junction of the A5 with the A495 and B4580 (Whittington Road). The assessments made for the amount of additional traffic movements likely to result from the present proposal appear wholly unrealistic, much too small. Many, quite possibly the majority of the 83 houses will have 2 or more cars, many of which will be used on a daily basis, and at peak times, causing congestion, and risking accidents, along Whittington Road and at the A5 roundabout.

The proposals also present a rose-tinted view of the proximity of local facilities. Whilst tabulations show that shops and other local facilities lie between 850m and 1.5km from the development site, the commentary describes an "excellent range of facilities within walking distance". The reality is that the development is, as Oswestry Town Council has pointed out, isolated and lacking in facilities nearby. It is fully 2km from the town centre, peripheral to the town; it is a development that runs entirely counter to the stated desire of Shropshire Council and decision makers local to Oswestry to strengthen Oswestry town centre, its shops and its facilities for the future. And, given that many visitors to Oswestry from the north and east - from the A5 and A495 - approach Oswestry via Whittington Road, to have that route dominated by modern housing will not provide any sort of attractive approach, unlike (as now) providing views from Whittington Road towards the hillfort.

The evidence appears clear. Harm will be caused to the setting of the hill fort - this

is acknowledged in the Heritage Impact Assessment. Planning policy makes clear that harm should be avoided. The present proposals, like those put forward previously, seek to suggest that the harm is only minor and won't really make any difference. It will. If the development is allowed, there is no doubt that substantial harm will be done - and there is no need for this; the development should be refused.

Likewise, the proposed development is in the wrong place, isolated from local shops and facilities. If allowed, it will present significant risk to road safety, and increase congestion and air pollution. Again, it should be refused.

4.22 **Historic Buildings and Places** have responded indicating:

Statutory Remit: *Historic Buildings & Places (HB&P) is the working name of the Ancient Monuments Society, a registered charity in England and Wales (no. 209605). We are a consultee on all Listed Building Consent applications involving an element of demolition, as required by the Arrangements for handling heritage applications – notification to Historic England and National Amenity Societies and the Secretary of State (England) Direction 2021. We are concerned with historic assets of all types and all ages, including conservation areas and undesignated heritage.*

Comments: *Thank you for consulting Historic Buildings & Places on this application. We have viewed the documents available online and **object** to the construction of 83 dwellings near Old Oswestry Hillfort, a scheduled ancient monument. HB&P objected to the previous scheme (20/01033/EIA) and we find the current scheme has little changed and not addressed any of our concerns relating to the setting of the Hillfort.*

The significance of the Hillfort is clearly outlined in the extensive and detailed list entry for this important site by Historic England. Significance derives not only from a heritage asset's physical presence, but also from its setting. The development site would fill in a large area of open rural land which forms an important part of the open setting around the base of this highly significant scheduled ancient monument. It forms part of an important final buffer between the hillfort and the urban edge of Oswestry, and this must be preserved.

We disagree that this development would have a minimal visual impact and that, for example, the hedgerows along the north side of Whittington Road would sufficiently screen and mitigate these impacts or preserve the rural character around the hillfort. The views from the hillfort itself look directly across the site. Urban development to the south of the site has already affected the wider setting and the cumulative impact of this additional development will further erode its open rural buffer and cause a considerable degree of harm to its significance and setting.

We remind your Authority of the relevant NPPF (2021) considerations:

- Paragraph 195: “Local planning authorities should identify and assess the particular significance of any heritage asset that may be affected by a proposal (including by development affecting the setting of a heritage asset) taking account of the available evidence and any necessary expertise. They should take this into account when considering the impact of a proposal on a heritage asset, to avoid or minimise any conflict between the heritage asset’s conservation and any aspect of the proposal”.
- Paragraph 199: “When considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset’s conservation”.
- Paragraph 200: “Any harm to, or loss of, the significance of a designated heritage asset (from its alteration or destruction, or from development within its setting), should require clear and convincing justification.”

4.23 **Cambrian Heritage Railways Ltd.** have responded to the application indicating:

I write on behalf of Cambrian Heritage Railways Ltd. (CHR) to object to planning application ref. 23/00225/FUL | Proposed residential development of 83 dwellings on a site which adjoins CHR railway.

CHR currently operates heritage trains as a visitor attraction on two lengths of railway, from Oswestry southwards to Weston, and from Llynclys to Pant. There are options for extension of the heritage services to link the two separate lengths. Plans are also progressing for a community rail service between Oswestry and Gobowen, initially to the Orthopaedic Hospital, later extended to Oswestry. This service will provide cross-platform interchange at Gobowen with trains from Birmingham/Cardiff/Shrewsbury to Chester/Holyhead and would use lightweight railcars similar to those now operating on Network Rail tracks between Stourbridge Junction and Stourbridge Town. In addition CHR continues to explore options with a view to recommencing rail freight transport of stone or other commodities from/to Llynclys and Llanddu Quarry via the Gobowen main line connection to the national rail network.

CHR's specific objections are:

1. The applicant's previous applications have included development of a foot path connection were there is currently an 'Accommodation Crossing' of the railway. These are an agricultural only easement crossing, this arrangement will cease upon the sale of the land and for the avoidance of doubt CHR will close and remove this crossing at that time.

Planning guidance S14 requires a pedestrian link between Whittington Road and Gobowen road. The application fails to address S14. Further new public crossings are currently prejudiced against by Office of Rail & Road policy and the applicant has failed to engage with CHR in relation to developing any application for a

crossing or negotiation for design/construction/maintenance of a pedestrian underpass.

2. It is noted that no houses are proposed immediately next to the railway, which is sensible but this has resulted in green spaces alongside an operational railway.

Given point 1 above, with no exit/entrance from this part of the site to Gobowen Road the development appears to have created an increased risk of trespass to the railway.

The plans fail to address any enhanced fencing or separation between the green spaces and the operational railway to mitigate the trespass risk this development creates.

3. Throughout the applicants documents they have referred to the railway as 'disused' or as a 'former railway'. The existence of statutory powers held by CHR (<http://www.legislation.gov.uk/ukxi/2017/370/made>) make this an operational railway.

Therefore the applicants documents have incorrectly assessed the impact, both positive and negatively from the railway.

Future residents will be subject to the noise of an operational railway, vibration or disturbance. Should any complaints arise in future, it should be noted that the 2017 Order gives CHR broad scope to operate trains and maintain the railway; while reasonable steps would be taken to minimize disturbance in keeping with national rail policies

4. The Transport Assessment assumes the private car will be the main mode of transport, with no proposals to enhance public transport (the bus service is non-existent at evenings and on Sundays) or enlarge the inadequate parking space at Gobowen Station. We urge that support is given to the opportunity presented by the future CHR light rail service, which has the potential to reduce car usage locally and CO2 emissions.

4.24 **The Council for British Archaeology** has responded indicating:

Thank you for notifying The Council for British Archaeology (CBA) about the above case. Based on the information supplied with this application, we offer the following observations and advice to assist your authority in determining the application.

Summary

The CBA strongly object to this application, which exceeds the northern development limit for OSW004 set out in the SoCG (2014). The harm this application would cause to a scheduled monument of the highest national significance is contrary to the requirements of NPPF paragraphs

199 and 200 as well as the heritage led guidance for development of this site. The strength of local attachment to Old Oswestry Hillfort, which defines the town's identity, cannot be ignored in determining this application. Strident public objection to housing development in this location, sustained over the last decade, should see this site allocation reassessed and excluded from future development site allocations in Shropshire's Local Plan.

Significance

The significance of Old Oswestry Hillfort has been ably articulated in several documents including Historic England's Scheduling description and Reasons for Designation. It also features in a variety of academic research that sets out to examine the relationship between various prehistoric monuments and landscapes within Wales and the Welsh Marches. The hillfort is one of several highly visible and significant prehistoric monuments in the region and is a particularly well preserved example. Wat's Dyke, constructed in the early medieval period, is frontier bank and ditch as well as a statement of political control. As such it deliberately included the earlier hillfort in its alignment at this location. These monuments are dominating features in the landscape that are highly regarded by the local community and therefore retain high communal value. The setting of these monuments is key to appreciating and understanding them and any encroachment into setting by development will inevitably be harmful. Despite its proximity to the urban fringe of Oswestry, the hillfort retains a strong open and rural setting that make a critical contribution to the setting and significance of the monument.

Comments

The CBA are disappointed to see the continuing pursuit of development in this highly contentious parcel of land just c.300 meters from one of the largest and most impressive hillforts in England. The CBA maintain our previously stated strong objection, and our support of the groundswell of local objection, to development in this location. The opposition to development in this location from 12,000 people (petition signatories), Oswestry Town Council and local MP, Helen Morgan must receive due consideration in determining this application.

In 2015 when examining the draft local plan a planning inspector judged that development in this location would amount to 'less than substantial harm' to the significance of Old Oswestry Hillfort, in NPPF terminology. To note, 'substantial harm' is an extremely high bar amounting to total loss or demolition. Less harm than total loss should not be excepted lightly. The NPPF requires any harm to heritage assets to be minimised, justified and mitigated against. NPPF paragraph 199 is pertinent in stating "When considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset's conservation (and the more important the asset, the greater the weight should be). This is irrespective of whether any potential harm amounts to substantial harm, total loss or less than substantial harm to its

significance.” The scheduled hillfort is a heritage asset of the highest national significance. The CBA believe there is a fundamental issue with the Site Allocations and Management of Development (SAMDev) component of Shropshire’s Local Plan (December 2015) that allocated site OSW004 for housing. It inherently contradicts Policy MD13: The Historic Environment of SAMDev that states “Shropshire’s heritage assets will be protected, conserved, sympathetically enhanced and restored by ensuring that where ever possible proposals avoid harm or loss of significance to designated or non-designated heritage assets, including their settings and that ensuring that proposals which are likely to have an adverse effect on the significance of a non-designated heritage asset, including its setting will only be permitted if it can be clearly demonstrated that the public benefits of the proposal outweigh the adverse effect.”⁹⁴

A Statement of Common Ground (SoCG) between Historic England and Shropshire Council, prepared prior to the examination of the SAMDev Plan identifies the long running contentious nature of site OSW004. The SoCG identifies the settings of the Hillfort and two adjoining sections of dyke as predominantly rural. This rural character setting is recognised as an important contributor to their significance. Importantly, the SoCG established a position of compromise in drawing a northern development limit within OSW004, which any development should not exceed. Approximately 50% of the proposed dwellings are beyond this line. The current proposals replicate the site layout of application 20/01033/EIA (refused), which the CBA also objected to. There is no ‘clear and convincing justification’ (NPPF, paragraph 200) for disregarding the stipulations of SoCG, to minimise harm to the setting of the scheduled hillfort, by exceeding this boundary line. On these grounds alone the CBA recommend to current application should be

refused. The CBA further recommend that the allocation of OSW004 for housing needs reassessing to give due credence to the strength of local objection, as well as the irreversible harm that development of this site would cause to the setting of the hillfort. Current changes to planning legislation, national policy and local housing delivery numbers means that the planning landscape in which Shropshire set out its land allocations for housing development in 2015 has considerably shifted.

The increased flexibility in delivering housing numbers and the new emphasis on neighbourhood input to planning on their doorstep should see any prospect of developing OSW004 abandoned. The CBA note that there are less contentious allocation sites elsewhere around Oswestry, including brownfield sites, which would not harm nationally significant and locally cherished prehistoric monuments. Housing development should preferentially be delivered on these alternative allocated sites.

Recommendations

It is understood that the Inspector’s considerations and conclusions regarding site OSW004 remain a significant material planning consideration when determining the current planning application. However, SoCG, which formed part of the inspector’s reasoning in balancing harm against housing

delivery identified a northern development limit within the site. This identified development limit within OSW004 sought to minimise harm to the scheduled hillfort. The current application disregards this key component of the inspector's considerations. Contrary to the requirements of NPPF paragraph 200, there is no justification presented for exceeding this minimised level of harm. It should therefore be refused on the grounds of exceeding this development line. There are other site allocations locally where housing could be delivered without harming the setting of such a nationally significant landmark. These include brownfield sites that would better accommodate 'active transport' and not rely on cars, adding to existing congestion issues, which would clearly be more sustainable options.

'Public benefit' is a golden thread that runs through planning policy. In order for your LPA to disregard the strength of public objection to this development you should be satisfied that the public benefit exceeds the harm caused to the hillfort's setting whilst giving 'great weight' to the significance of this heritage asset of the highest national importance. The vociferous public objection to development in this location is remarkable and must be given due credence in the planning balance. 12,000 local objections alongside objections from Oswestry Town Council and their local MP clarifies a definite lack of perceived public benefit from developing OSW004.

The Levelling UP and Regeneration Bill, which is progressing through parliament, as well as draft secondary planning legislation places increased emphasis on public consultation and community voices in directing future development in 'their place'. The planning backdrop to the inspector's acceptance of OSW004 for development in 2015 has changed. OSW004 has been contentious since its inception. The CBA therefore strongly recommend that this site should be excluded from future Local Plans.

Old Oswestry Hillfort is essentially what puts Oswestry on the map. It is a lynchpin of local place identity that stretches back to the iron age. Rather than SAMDev 2015, the salient consideration for this location is paragraph 189 of the NPPF "Heritage assets range from sites and buildings of local historic value to those of the highest significance, such as World Heritage Sites which are internationally recognised to be of Outstanding Universal Value. These assets are an irreplaceable resource, and should be conserved in a manner appropriate to their significance, so that they can be enjoyed for their contribution to the quality of life of existing and future generations."

I trust these comments are useful to you; please keep the CBA informed of any developments with this case.

4.25 **The Civic Society** has responded to the application indicating:

The Oswestry and District Civic Society strongly objects to the above planning application, for the following key reasons:

1. No consideration has been given to the cumulative effects of the proposals, that is, how the altered landscape will add to previous harm resulting from the erosion

of the hillfort setting from northwards creep of the town. The Coppy was previously treated in planning terms as a natural screen for earlier housing development. The proposal to develop beyond The Coppy would set a worrying new precedent for future proposals.

2. The proposed development would be contrary to National Planning Policy Framework (NPPF) s.174, as it would adversely affect a valued and historically important landscape, one that provides a visual link between the scheduled monuments of Old Oswestry hillfort and Wat's Dyke with Oldport, Park Hall, and Whittington, and the ancient road connecting them. The existing rural landscape enables the appreciation of the hillfort's wider heritage connections through its setting. This would be radically and adversely changed by the proposed development, which would create an urban suburb devoid of historical resonance, and which would undermine contextual appreciation of the historical landscape.

3. The proposed development would be contrary to NPPF s.199, as it would expand the town into a crucial area of Old Oswestry hillfort's setting, visually triggering the start of enclosure of the hillfort in its south-eastern landscape, and thus fails to take proper account of the significance of Old Oswestry hillfort as a designated heritage asset, nor give sufficient weight to the asset's conservation.

4. The proposed development would be contrary to NPPF s.200, as the application does not provide clear and convincing justification for significant damage to a designated heritage asset. The proposal would cause harm to the heritage significance of the scheduled monument Old Oswestry hillfort through urban encroachment and destruction of a key part of its historical and landscape setting. It cannot be demonstrated that the harm/loss is necessary when more than

sufficient land has been identified for housing development elsewhere in and around Oswestry.

5. The proposed development would be contrary to NPPF s.206, as it would permanently undermine existing views of the hillfort from the B4580 Whittington Road, which allow the monument to be appreciated and experienced in its landscape.

6. The proposed development would be contrary to the Site Allocations and Management of Development (SAMDev) Plan 2006-2026, s.14, and the underpinning Statement of Common Ground (SoCG) 2014 agreed between Shropshire Council and Historic England, as it would:

- Exceed the northern limit for development*
- Fail the obligation to demonstrate appropriate regard to the significance and setting of the hillfort*
- Fail the obligation to meet the requirements to provide pedestrian and cycle path links to the former railway and a new footpath link between Whittington Road and Gobowen Road, to improve access towards the hillfort*
- Fail to the obligation to improve the junction of the Whittington and Gobowen roads. The hillfort is of national and international importance in both heritage and archaeological terms, and local and regional importance in recreational and*

cultural terms. These amenities are all enhanced by the rural context of the hillfort, and the 360 degree views available from this. The hillfort's separation from the town must be preserved by the prevention of further urban encroachment into its setting.

4.26 **Rescue - The British Archaeological Trust** have responded indicating:

RESCUE, The British Archaeological Trust wishes to register its objection to this planning application and to further reiterate the views expressed repeatedly by RESCUE and many others concerned about the potential denigration of this hugely important national monument by development at its base. We are very concerned by the apparent determination with which development on the OSW004 site is pursued when so many object and Oswestry's housing requirements can be met by utilizing other sites.

We and many others have objected to this development allocation throughout the planning process and our views on the suitability of this site for any development have not changed. But to reiterate, Old Oswestry Hill-Fort is one of the best preserved hill-forts in the country and a Scheduled Ancient Monument. Under the provisions of the Ancient Monuments and Archaeological Areas Act 1979, Scheduled Monuments are protected from destruction or disturbance and this includes the impact on the setting of the Monument by development. Setting is a material consideration in the planning process and extends well beyond just the curtilage of the site. The setting of hillforts is a fundamental part of their importance as they were originally designed with the surrounding open space as an integral and indispensable part of the layout. The current proposals would have a seriously adverse impact on the landscape setting of the hillfort and conflicts with the protection afforded to the monument by the 1979 Ancient Monuments and Archaeological Areas and Monuments Act. It also contravenes the UK's commitments to the protection of the historic environment set out within the Valletta Convention (1992).

The proposed development area is clearly visible from the south-eastern side of the hillfort and the visibly intrusive loss of this open space would significantly compromise its historic and scenic value. The certain impact of allowing the development to proceed, which would result in a harder edge to modern built development, would damage the visual magnificence and special character of one of this country's most important prehistoric strongholds. Any incursion into this setting space would be catastrophic for the archaeological integrity of the monument. The outlook from the hillfort would have been of significance to the hillfort builders and occupiers and would have certainly influenced its siting. It is critical to the understanding of the monument that its surrounding open spaces and these views are preserved without interruption and that visitors get the chance to experience them. Any loss of this would dilute the visitor experience and, potentially, impact on visitor numbers. Old Oswestry is an important contributor to the tourism income of this area and the economic benefits to the local economy of Old Oswestry should not be compromised by ill-considered development.

Planning decisions should be guided by the National Planning Policy Framework NPPF, 2021 revision) of which para. 194 says::

"Any harm to, or loss of, the significance of a designated heritage asset (from its alteration or destruction, or from development within its setting), should require clear and convincing justification. Substantial harm to or loss of.....b) assets of the highest significance, notably scheduled monuments,..... should be wholly exceptional."

There is therefore no justification for approving this planning application.

The nation's most important archaeological sites are a wonderful legacy from the past that should be cherished and protected not built on. RESCUE therefore maintains its strong objection to any development in this area (and indeed that this area should be included as a potential development area at all)

5.0 THE MAIN ISSUES

- Principle of development
- Impact on the historic setting associated with the Old Oswestry Hill Fort
- Siting, scale and design.
- Visual impact, landscaping and provision of open space.
- Public highway access and transportation
- Drainage
- Ecology
- Residential amenity
- Affordable Housing.

6.0 OFFICER APPRAISAL

6.1 Principle of development

6.1.1 Under section 38(6) of the Planning and Compulsory Purchase Act 2004, all planning applications must be determined in accordance with the adopted development plan unless material considerations indicate otherwise. Proposed development that accords with an up-to-date Local Plan should be approved, and proposed development that conflicts should be refused, unless other material considerations indicate otherwise. The development plan in Shropshire consists of the Core Strategy (adopted in February 2011), and the Site Allocations and Management of Development (SAMDev) Plan (adopted in December 2015). While planning applications are considered against the policies of the development plan as a whole, specifically relevant policies to this application are set out further below.

6.1.2 Core Strategy Policy CS3: The market towns and other key centres indicates that housing development will be of an appropriate scale and design that respects each town's character and will take place within the town's boundaries and on sites allocated for development. Oswestry will provide a focus for major development

6.1.3 Core Strategy Policy CS6: Sustainable design and development principles states that to create sustainable places, development will be designed to a high quality using sustainable design principles, to achieve an inclusive and accessible

environment which respects and enhances local distinctiveness and which mitigates and adapts to climate change. It further states that all development will protect, restore, conserve and enhance the natural, built and historic environment and is appropriate in scale, density, pattern and design taking into account the local context and character, and those features which contribute to local character, having regard to national and local design guidance.

- 6.1.4 Policy MD2 of the SAMDev on Sustainable Design indicates for development proposals to be considered acceptable development must respond positively to local design aspirations and contribute to and respect local distinctive or valued character.
- 6.1.5 Policy MD3: Delivery of Housing Development indicates support for allocated housing sites and makes reference to the settlement policies. In the case of this application it is Policy S14: Oswestry – this policy indicates the application site as an allocated housing site reference OSW004 for provision of 117 dwellings indicating development subject to the access, layout and landscaping of the site, securing high quality design and appropriate integration of development within the sensitive historic landscape and that development should demonstrate appropriate regard to the significance and setting of the Old Oswestry Hill Fort. It is considered the applicants site layout plan and detail in support of the application addresses issues on site as referred to in Policy S14.1a in the SAMDev with reference to a master plan. (Detail in relation to pedestrian and cycle path links along with public highway issues covered later in this report).
- 6.1.6 Policy MD13: The Historic Environment in the SAMDev states that Shropshire’s heritage assets will be protected, conserved, sympathetically enhanced and restored by ensuring that where ever possible proposals avoid harm or loss of significance to designated or non-designated heritage assets, including their settings and that ensuring that proposals which are likely to have an adverse effect on the significance of a non-designated heritage asset, including its setting will only be permitted if it can be clearly demonstrated that the public benefits of the proposal outweigh the adverse effect.
- 6.1.7 Paragraph 3.132 in support of Policy MD13 states Heritage assets are buildings, monuments, sites, places, areas or landscapes that merit consideration as part of the planning process. The term includes all designated and non-designated assets.
- 6.1.8 The National Planning Policy Framework, (NPPF) sets out the Governments planning policy, it was revised in July 2021 and is a significant material planning consideration for decision takers. Paragraph 38 of the framework says that “Local Planning Authorities should approach decisions on proposed development in a positive and creative way. They should use the full range of planning tools available, including brownfield registers and permission in principle, and work proactively with applicants to secure developments that will improve the economic, social and environmental conditions of the area.” The NPPF indicates a presumption in favour of sustainable development and that for decision taking this means approving development proposals that accord with an up-to-date development plan.

- 6.1.9 The NPPF states that achieving sustainable development means that the planning system has three overarching objectives which are interdependent and need to be pursued in mutually supportive ways. These are:
- An economic objective – to help build a strong, responsive and competitive economy, by ensuring that sufficient land of the right types is available in the right places and at the right time to support growth, innovation and improved productivity; and by identifying and coordinating the provision of infrastructure.
 - A social objective – to support strong, vibrant and healthy communities, by ensuring that a sufficient number and range of homes can be provided to meet the needs of present and future generations; and by fostering a well-designed and safe built environment, with accessible services and open spaces that reflect current and future needs and support communities' health, social and cultural well-being; and
 - An environmental objective – to contribute to protecting and enhancing our natural, built and historic environment; including making effective use of land, helping to improve biodiversity, using natural resources prudently, minimising waste and pollution, and mitigating and adapting to climate change, including moving to a low carbon economy.

These objectives should be delivered through the preparation and implementation of plans and the application of the policies in the Framework; they are not criteria against which every decision can or should be judged. Planning policies and decisions should play an active role in guiding development towards sustainable solutions, but in doing so should take local circumstances into account, to reflect the character, needs and opportunities of each area.

- 6.1.10 As indicated by the Council's Conservation Manager, the principle of developing SAMDev site OSW004, specifically in relation to impacts on the significance of the Scheduled Monument Old Oswestry Hillfort, and two adjacent sections of Wat's Dyke, was considered in detail by the Planning Inspector in her Report on the Plan Examination of October 2015 at paragraphs 233 – 245 (pgs 55-59) and is available in full on the Council's website at:

<https://www.shropshire.gov.uk/media/8232/samdev-plan-inspectors-report.pdf>

The Inspector's considerations and conclusions regarding this site remain a significant material planning consideration when determining the current planning application. A summary of her findings is provided in the Conservation Managers response to the application in paragraph 4.14 above.

- 6.1.11 As required under the Framework, at paragraph 245 the Inspector undertook a balancing exercise, in which she weighed the public benefits of the proposal in relation to the various other policy considerations that applied at that time. Having done so, the Inspector concludes (ibid.) by stating that she is "... *satisfied that the public benefits of the proposal would clearly outweigh the **less than substantial harm** to Old Oswestry Hillfort heritage asset and any other harm that might arise.*"

It is important to recognise that the Inspector's finding of less than substantial

harm to the significance of the Hillfort, in relation to her assessment of the impacts the development of OSW004 would have, aligns with the distinction between of substantial and less than substantial harm that has been established through case law. In this respect, the law remains the position established by Mr Justice Jay in Bedford Borough Council vs SSCLG and Nuon UK Ltd [2013] EWHC 2847, in which he observed that (at para 25): -

"...in the context of physical harm, [substantial harm] would apply in the case of demolition or destruction, being a case of total loss. It would also apply to a case of serious damage to the structure of the building. In the context of non-physical or indirect harm, the yardstick was effectively the same. One was looking for an impact which would have such a serious impact on the significance of the asset that its significance was either vitiated altogether or very much reduced."

Consequently, 'substantial harm' is established as a high test. This is emphasised in the relevant section of the National Planning Practice Guidance (NPPG), which also states that it is *"...the degree of harm to the asset's significance rather than the scale of the development that is to be assessed."* (Paragraph: 018 Reference ID: 18a-018-20190723).

When assessing the current planning application, and in addition to the Inspectors Report from the SAMDev examination and case law, due consideration has been given to Policies CS6, CS17, MD2, MD13 and S14.1/S14.1A of the Local Plan; the policies contained in Chapter 16 of the NPPF; the guidance contained in the NPPG; and Historic England's Historic Environment Good Practice in Planning Advice Notes 2 (Managing Significance in Decision-Taking in the Historic Environment) and 3 (The Settings of Heritage Assets) and Advice Note 12 (Statements of Heritage Significance: Analysing Significance in Heritage Assets). The principle of this form of development is therefore considered acceptable on an allocated housing site, located alongside the built form of Oswestry. The key considerations in this case are whether the merits of the proposal in providing housing on the allocated site are acceptable in relation to the scale, detail and landscaping with particular reference to the adjacent historic landmark and its setting within the surrounding landscape. The key material considerations are considered further below.

6.2. **Historic environment and impact**

6.2.1 Section 16: Conserving and enhancing the historic environment in the National Planning Policy Framework, (NPPF), indicates:

'In determining applications, local planning authorities should require an applicant to describe the significance of any heritage assets affected, including any contribution made by their setting. The level of detail should be proportionate to the assets' importance and no more than is sufficient to understand the potential impact of the proposal on their significance. As a minimum the relevant historic environment record should have been consulted and the heritage assets assessed using appropriate expertise where necessary. Where a site on which development

is proposed includes, or has the potential to include, heritage assets with archaeological interest, local planning authorities should require developers to submit an appropriate desk-based assessment and, where necessary, a field evaluation' (para 194)

Local planning authorities should identify and assess the particular significance of any heritage asset that may be affected by a proposal (including by development affecting the setting of a heritage asset) taking account of the available evidence and any necessary expertise. They should take this into account when considering the impact of a proposal on a heritage asset, to avoid or minimise any conflict between the heritage asset's conservation and any aspect of the proposal'. (para 195).

'In determining applications, local planning authorities should take account of:
a) the desirability of sustaining and enhancing the significance of heritage assets and putting them to viable uses consistent with their conservation;
b) the positive contribution that conservation of heritage assets can make to sustainable communities including their economic vitality; and
c) the desirability of new development making a positive contribution to local character and distinctiveness'.(para 197)

'When considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset's conservation (and the more important the asset, the greater the weight should be). This is irrespective of whether any potential harm amounts to substantial harm, total loss or less than substantial harm to its significance'.(para 199).

'Any harm to, or loss of, the significance of a designated heritage asset (from its alteration or destruction, or from development within its setting), should require clear and convincing justification. Substantial harm to or loss of:
a) grade II listed buildings, or grade II registered parks or gardens, should be exceptional;
b) assets of the highest significance, notably scheduled monuments, protected wreck sites, registered battlefields, grade I and II listed buildings, grade I and II* registered parks and gardens, and World Heritage Sites, should be wholly exceptional'. (para 200).*

'Where a development proposal will lead to less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against the public benefits of the proposal including, where appropriate, securing its optimum viable use'. (para 202).

'The effect of an application on the significance of a non-designated heritage asset should be taken into account in determining the application. In weighing

applications that directly or indirectly affect non-designated heritage assets, a balanced judgement will be required having regard to the scale of any harm or loss and the significance of the heritage asset'. (para 205).

'Local planning authorities should look for opportunities for new development within Conservation Areas and World Heritage Sites, and within the setting of heritage assets, to enhance or better reveal their significance. Proposals that preserve those elements of the setting that make a positive contribution to the asset (or which better reveal its significance) should be treated favourably' (para 206).

At page 71 of the Annex2: Glossary the NPPF defines the setting of a heritage asset as (pg: -

'The surroundings in which a heritage asset is experienced. Its extent is not fixed and may change as the asset and its surroundings evolve. Elements of a setting may make a positive or negative contribution to the significance of an asset, may affect the ability to appreciate that significance or may be neutral.'

- 6.2.2 The application is accompanied by an Heritage Impact Assessment and this concludes that the proposed development will cause less than substantial harm to the significance of Old Oswestry Hillfort as a consequence of the affect upon its setting.and will have little or no impact on the setting or significance of the other assets.
- 6.2.3 It is noted that as well as many letters of objections from members of the public a number of organisations such as the Pre-historic Society, British Archaeological Trust, Council for British Archaeology, Historic Buildings and Places and a campaign group set up to oppose the development known as 'HOOOH' have objected to the application on historic grounds and in particular in relation to the archaeological sensitivity of the scheduled ancient Hill Fort and its setting. Many dispute the findings of the applicants' historic environment specialists and that of the conclusions drawn by Historic England and the Council's Conservation Manager as outlined in para 4.4 and 4.14 respectively of this report.
- 6.2.4 Historic England has indicated that in NPPF terms they assess that the impact of the development within the setting of Old Oswestry Hillfort, would be to cause less than substantial harm to its significance. In coming to a decision, the Council should fully consider NPPF paragraphs 199 and 200 and apply the tests of NPPF paragraph 202..
- 6.2.5 Historic England have guidance on the setting of heritage assets namely 'The Setting of Heritage Assets - Good practice advice in planning note 3' and in relation to decision taking this sets out stages to be assessed. The proposed development site is located c.300m southeast, and within the setting, of the

Scheduled Monument of Old Oswestry hillfort, and two adjacent sections of Wat's Dyke (NHLE ref. 1014899). Their designation as such indicates the national importance that these monuments, and the National Planning Policy Framework (NPPF) therefore recognises that they are designated heritage assets with the highest level of significance. It is considered by officers that the development as proposed will cause less than substantial harm to the significance of the scheduled monument as a consequence of the effects upon its setting. As such, the decision taker is therefore directed to the tests as set out in paragraphs 195, 197, 199, 200 and 202 of the NPPF. In relation to paragraph 195 the heritage asset is of the highest significance, in relation to paragraph 197 development will cause less than substantial harm to its significance, in consideration of paragraph 199 it is considered there will be less than substantial harm but that nevertheless great weight is given to this important asset's conservation. In relation to paragraph 200 the proposal includes provision for additional landscaping which will assist in the landscape setting and development on site is of low density and located within the setting of the existing built-up environment of Oswestry and as such this also covers stages 3 and 4 of the Historic England guidance as referred to above. In relation to paragraph 201 of the NPPF it is considered this is not relevant, as development as proposed will not lead to substantial harm, or total loss of the significance of the designated heritage asset. In relation to paragraph 202 of the NPPF it is considered that the development as proposed will cause less than substantial harm to the significance of the hillfort as a Scheduled Monument. However, the development will bring public benefits through the provision of much needed housing for Oswestry on an allocated site in accordance with the local plan, in a scale design and layout considered acceptable for the location and whilst also noting that Oswestry has underdelivered in house building during the local plan period. This is considered a significant material consideration, and one which is considered to outweigh the less than substantial harm that will be caused to the designated heritage asset. It is also noted that the site is included to be 'saved' as part of the Local Plan Review.

6.2.6 The Inspector's examination of the SAMDev plan, , in relation to residential development of the site, indicated that the public benefits of the proposal would clearly outweigh the less than substantial harm to the Old Oswestry Hillfort heritage asset and any other harm that might arise. In coming to this view the Inspector took into account: The Oswestry SUE will not meet the housing requirements set out within the Core Strategy for Oswestry. Other supplementary sites are therefore required.

- There are limited greenfield housing options in Oswestry due to various physical factors.
- The site at Whittington Road is well served by the existing employment sites along Whittington Road.
- The site is well located for the town centre, where most of the essential services can be found.
- The dismantled railway forms a potential pedestrian/cycle link from the site

to the town centre.

6.2.7 Overall on all historic grounds which includes reference to the archaeological sensitivity of the Hill Fort and its setting, the conclusions reached by the Council's Conservation Manager as outlined in para 4.14 of this report in response to the application are shared by Officers. The site is allocated in the local plan for residential development having gone through extensive considerations when the site was considered at the adoption stage for allocation for housing. On balance it is considered the delivery of housing on this site can be supported subject to satisfactory scale and layout and landscape impact in relation to both the historic and archaeological features of the Hill Fort site and its setting.

As such in-line with paragraphs 195, 197, 199, 200 and 202 of the NPPF whilst acknowledging the significance of the Hill fort as a designated heritage asset (scheduled ancient monument), it is considered impacts upon it, as a consequence of the effects upon its setting, will cause 'less than substantial harm' to its significance. Great weight has been given to its conservation as required by the relevant NPPF paragraphs and in particular paragraph 199. As recognised by the Inspector at the allocation stage, the proposed development offers considerable public benefit in that it provides much-needed new housing, including some affordable accommodation. It would also provide a new viewing area that would enhance the experience of Old Oswestry Hillfort over that which is offered when viewed through breaks in the hedges on the moderately busy Whittington Road and the B5069. Further, it is considered that the requirements as set out in Policy MD13 and the development guidelines as set out in Policy S14.1/S14.1A of the Local Plan are met subject to conditions in relation to external construction materials, landscaping, external lighting and archaeology site investigations, (given the archaeological interest on the development that arises from the presence of WWI practice trenches, and in line with Policy MD13 of the Local Plan and Paragraph 203 and 205 of the NPPF). As such, and with references to the tests as set out in paragraphs 195, 197, 199, 200 and 202 of the NPPF, it is considered the public benefits of the proposed development will outweigh the less than substantial harm that will be caused to the significance of Old Oswestry Hillfort as a designated heritage asset.

Paragraph 206 of the NPPF indicates that within the setting of heritage assets local planning authorities should look to enhance or better reveal their significance. The applicants have offered what is considered acceptable landscape mitigation and a viewing platform within the development from which to view the significance of the Old Oswestry Hillfort.

6.2.8 The comments made by the various objectors to the application on historic grounds as outlined earlier in this report have been taken into consideration, however whilst it is acknowledged that the Hillfort is a heritage asset of the highest significance and that great weight should be given to its conservation, there is a defined and mature boundary of vegetation along Gobowen Road. The site would be accessed from Whittington Road, on the southern boundary of the site. It is adjacent to an existing industrial development and there is existing development on the opposite side of Whittington Road. The development of the

proposed site would not impinge on the rural setting of the Hillfort and will be acceptable in relation to other historic assets such as Oldport Farm, considered a non-designated heritage asset. Development on site would be seen from the Hill Fort against the existing urban edge, and it is considered that development in this wider rural context, would be minimal and the significance of the designated heritage asset would not be compromised. It is considered that development on site is low density with generous landscaping and as such complies overall with the Statement of Common Ground drawn up between Shropshire Council and Historic England, when the site was allocated for housing in accordance with the SAMDev as outlined by the Planning Inspector, in her Report dated October 2015. It is noted that Historic England did not object to development on site during the adoption process for housing on site and they maintain no objection to the proposal under discussion.

6.2.9 In relation to impacts on the historic environment and the fact that Officers consider development as proposed will lead to 'less than substantial' harm to the significance of the Scheduled Monument, it is concluded that the views of the Council's Conservation Manager and the comments as made by Historic England are shared and thus the proposed development is considered to be in accordance with the relevant local plan policies, policies CS6 and CS17 of the Shropshire Core Strategy, Policies MD2, MD13 and S14 of the SAMDev and the NPPF as discussed above.

6.3 **Siting, scale and design**

6.3.1 Policy CS6 of the Core Strategy is concerned with delivering high quality sustainable design in new developments that respect and enhance local distinctiveness. This is further bolstered by SAMDev Policy MD2. In summary, these policies expect new development to be designed to be sustainable in the use of resources, including during the construction phase and future operational costs, reduced reliance on private motor traffic, be respectful of its physical, landscape setting and context and to incorporate suitable mitigation in the form of materials and landscaping. Significantly, Policy MD2 allows for appropriate modern design and promotes "embracing opportunities for contemporary design solutions, which take reference from and reinforce distinctive local characteristics to create a positive sense of place but avoid reproducing these characteristics in an incoherent and detrimental style." Paragraph 130 of the NPPF indicates that decisions should ensure that developments are sympathetic to local character and history, including the surrounding built environment and landscape setting and are visually attractive, as a result of good architecture, layout and appropriate and effective landscaping. Whilst the Hill Fort is considered an important historic and landscape feature, it is also acknowledged that within the surrounding vicinity alongside the application site, (to the south and west of the site), which forms part of the monuments setting, there are existing modern housing and industrial

developments. Notwithstanding previous development, the current application proposes residential development on an allocated housing land site of a scale and layout considered appropriate for the location. Indeed, the scale and density is considered low as the site is allocated for approx 117 dwellings (Land off Whittington Road, OSW004), and this application proposes 83 dwellings well-spaced out in landscape layout. As referenced by the applicants in their Planning Statement, the Planning Inspector considered this site in great detail, during the SAMDev Plan examination for which Shropshire Council and English Heritage, (now known as Historic England) agreed a Statement of Common Ground (SOCG). This confirmed that English Heritage accepted the principle of some development on site OSW004 since 2013 and will seek to secure opportunities to enhance the public's appreciation of the Hillfort, namely:

“This Statement supports the representation English Heritage made at the Pre-Submission stage on 28 April 2014. We have stated in previous responses going back to August 2013 that it may be possible for some development to take place on Site OSW004, subject to appropriate master planning and design principles, that help to conserve the significance of Old Oswestry Hillfort, including its setting. If the Council considers the site is justified by the evidence base it has and the Planning Inspector is minded to include Site OSW004 within the adopted SAMDev Local Plan, then we would seek the following modifications to ensure the impacts to the significance of the Hillfort are minimised and enhancement opportunities are secured. The purpose of this additional information is to inform the strategic design principles to conserve the significance of the Hillfort. The Statement of Significance is not intended to form part of the SAMDev Local Plan itself but to form part of the evidence base and inform the master planning of this site.

The SOCG describes the Hillfort and its rural setting to the west, north and east of the Hillfort. It explains that site OSW004 is acceptable because it is against the existing urban edge south-east of the Hillfort, stating:

Site OSW004 would be seen from the Hillfort against the existing urban edge, in views to the southeast. The site is lower lying than the land to the west of the B5069 and so would have a roofscape presence in views to the southeast from the Hillfort, which would need careful design consideration. The southwest section of OSW004 is further away and partly obscured behind existing industrial development.”

- 6.3.2 It is considered this application proposes residential development that satisfies the above-mentioned proposing 83 dwellings of traditional two-storey detached and semi-detached design, offering a mixture of bedrooms sized properties including affordable housing in accordance with policy requirements for the location concerned. (10% and to be secured via a Section 106 agreement in the event of the application being approved by the Council).
- 6.3.3 In relation to siting, scale and design, this matter in relation to detail as set out in support of the application is considered to be addressed satisfactory and in

accordance with Policies CS6, CS17, CS11, MD2, MD12 and MD13 of the SAMDev and the NPPF in relation to good design. Built development to the northern boundary is considered acceptable with detail in support of the application indicating good landscaping detail in this part of the site, which will contribute towards integrating the development into the surrounding landscape and this includes acceptability in relation to the setting of the Hill Fort. Development is proposed in-line with the curtilage of the adjacent existing development, with adequate landscaping proposed to the north. In her report on the SAMDev, the Planning Inspector went into detail with regard to this site, noting that the layout should ensure that new development does not protrude to the north of the existing built development. The statement of common ground agreed between Shropshire Council and Historic England confirmed that Historic England had been involved in discussions from the earliest stage of the SAMDev Plan process and it is noted Historic England have not objected to the building line and layout as proposed. It is noted that objectors to the application have referred to the building line to the north of the site, considering development as proposed exceeds this line. Development does not exceed the curtilage to the development and further still there is a farmstead to the north of this. To limit development as suggested by objectors would mean the site allocation (up to 117 houses) could not be delivered on site. The application proposes 83 dwellings which although considered a low density, (34 dwellings per hectare), with landscaping as proposed is considered by Officers to be acceptable.

6.4 **Visual impact and landscaping**

- 6.4.1 Policy CS6 provides 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. 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
- 6.4.2 MD12: The Natural Environment builds on Policy CS17 providing development which appropriately conserves, enhances, connects, restores or recreates natural assets.
- 6.4.3 A detailed Landscape and Visual Impact Assessment has been submitted with the application, and this concludes that: *Overall the scale and form of proposed development is likely to result in change at a relatively localised level, on the north-eastern extent of the settlement of Oswestry. This will influence the landscape character and visual amenity in this location at the settlement edge. The proposals for green infrastructure and landscaping will deliver several enhancements in terms of the physical landscape. These proposals have been developed with reference to SAMDev policy 14.1a, to published landscape character assessment Shropshire Landscape Typology, and to the published Shropshire Landscape and Visual Sensitivity Study. The development envelope also responds to and positively addresses the constraints and opportunities*

identified as part of the detailed landscape and visual analysis. The proposed development will therefore respect its context and the character of the landscape in this area of the settlement fringe of Oswestry. This will be achieved through the retention of existing landscape features, the careful siting of new built form alongside the existing settlement edge, together with supplementary elements of landscape infrastructure, such as the new green link and avenue trees, the Observation Point, the northern landscape buffer, open spaces, and new tree planting along Whittington Road. The visual amenity of both new and existing residents, road users and users of public rights of way has been considered through the iterative process of analysis and design, so that new planting works to screen, soften, filter or enhance views in the long term. This includes the consideration of views to and from Old Oswestry Hillfort. The introduction of new built form is not inconsistent with the immediate site context due to the existing residential and commercial land uses nearby. In addition, the landscape strategy will ensure that the proposed development can be assimilated with the local landscape character. The proposed development is therefore considered acceptable in landscape and visual terms

- 6.4.5 The SC Landscape Adviser has commented on the application and in his conclusions as set out in paragraph 4.6 above concludes that the LVIA has been prepared in a proportionate manner in compliance with the guidance set out in GLVIA3 and supporting Technical Guidance Notes. The LVIA comments that the majority of landscape and visual effects are adverse, with a small number of neutral visual effects. The adverse effects range from moderate to major adverse (significant) to negligible adverse. At Year 15 with mitigation in place, predicted levels of effect reduce and none are predicted to be significant. No beneficial effects are predicted. The most adverse effects are predicted in the short term for users of the Hillfort, and the significant predicted levels of moderate to major adverse arise from a combination of (a) the very high visual sensitivity of visitors to the Hillfort, and (b) the open views to the south-eastern parts of the proposed development. Although the proposed development will bring a noticeable new element into the landscape, parts of it will be obscured by the trackside vegetation along the Cambrian Railway, and it appears located within an arc of existing built form comprising Oldport and the settlement edge of Oswestry. Over time, the proposed planting within the development and on the frontage open space to Whittington Road will have the beneficial effect of softening the visually intrusive commercial/employment-built form on the southern edge of Whittington Road. The Landscape Advisor has indicated concerns that the phased nature of the development places significant risks to the effective delivery of the proposed mitigation and enhancement measures. (Development is in one phase so not a phased development). Whereas outline details of the observation point are included, no details are provided on the interpretive material relating to the Hillfort. The recommendations that the landscape advisor made in their February 2023 review in relation to additional information to be sought prior to determination of the application have been satisfactorily addressed. The Landscape Advisor recommends that, if the application is approved, that conditions be imposed

requiring

- The open space adjacent to the northern boundary of the site be laid out in its entirety by the end of the first planting season after commencement of development of Phase 1 (Development is not phased).
- The submission of details of the observation point and interpretive material relating to the Hillfort.

6.4.6 It is noted that the SC Tree Manager has indicated that the proposal would have a very low impact on the existing arboriculture resource and the new planting would bring significant benefits and increase the extent of the urban forest in Oswestry. No objections are raised to the proposed development, and a recommendation is made that the protection of the existing retained trees and the landscape planting site is a condition of any grant of planning approval.

6.4.7 The application proposes provision of amenity space which exceeds the minimum requirements of Policy MD2 as set out in the SAMDev within the site along with landscaping in the form of mitigation in consideration of the site location and the setting of the Hill fort to the north of the site. The proposed site plan indicates substantial landscaping alongside the northern boundary, a planting buffer alongside the western boundary, (adjoining industrial development), and alongside the southern boundary with Whittington Road, Dwelling plot sizes are considered acceptable with consideration to the overall site layout and location for the proposed development

6.4.8 Cumulative impacts of the development are considered acceptable in relation to the surrounding built environment, to which development on site will have a strong connection too, whereas the Hill Fort will remain as a stand alone landmark surrounded by farmland alongside its boundary setting, and as such well as impacts in relation to the Hill Fort site with landscaping as proposed considered acceptable. (This is a matter raised by HOOOH in objection as set out in paragraph 4.19 above, and the Civic Society par 4.25).

6.4.9 Whilst comments as made by objectors to the application as referred to earlier in this report are acknowledged, on landscape and visual impact and provision of amenity space the application is considered acceptable, the proposed development includes significant landscaping and adequate provision of open space and as such it is considered development will integrate into the landscape satisfactorily with conditions attached as discussed in paragraph 6.4.5 above, if the application was to be approved by the Council. Any approval would also require a Section 106 agreement in accordance with the Town and Country Planning Act 1992, in order to ensure the provision of the amenity space as proposed and to ensure its maintenance and management in perpetuity.

6.4.10 As such , the application is considered acceptable and in accordance with Policies CS6 and CS17 of the Shropshire Core Strategy, Policies MD2, MD12, MD13 and S14.1a of the SAMDev and the NPPF on these matters

6.5 **Public Highway access and transportation**

6.5.1 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.

6.5.2 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

6.5.3 Policy S14.1a of the Council's SAMDev refers to the allocated housing site and sets out development guidelines which include that development on site will need to be subject to pedestrian and cycle path links to the former railway, (adjacent to the site), and a new footpath link between Whittington Road and Gobowen Road to improve access towards the Hill Fort. Development will also be subject to improvements to the Whittington Road with the A5/483. These matters have been raised as a concern by various objectors to the application as outlined earlier in this report.

6.5.4 Post publication of the SAMDev, Cambrian Heritage Railways were granted statutory powers in 2017 to operate the former railway. This means that the delivery of a new public footpath in the northwest corner across the railway to Gobowen Road will no longer be deliverable as nationally there is a presumption against authorising new level crossings. It is understood the SAMDev requirement for a link in this location was made on the assumption that the former railway was to be converted to a pedestrian cycle link from the site into Oswestry town centre, which clearly hasn't materialised now that statutory powers were granted to Cambrian Railways to restore the line.

6.5.5 Vehicular access to the site is proposed from Whittington Road via a new ghost island priority junction with Whittington Road. This will be formed by extending the existing ghost island arrangements at Harlech Road, which requires the existing right turn storage for Harlech Road to be marginally reduced. The proposed site access junction can be provided to the required standard with appropriate visibility splays, using land that is either part of the site or the adjacent public highway. The scheme would include new pedestrian refuges to enable pedestrian movement between the development and the existing developed area to the south. The site is located within the recommended walking distance of local bus services that pass along Whittington Road, and also within a reasonable walking distance of alternative services that use Windsor Road. These provide a good level of service to/from Oswestry town centre, the employment areas to the south and Gobowen railway station to the north. The proposed development would be within a comfortable walking distance of Oswestry town centre, which contains a range of shops, school, recreation facilities and employment opportunities. The area surrounding the site is also accessible by cycle, which could be an attractive and viable mode of travel for trips to adjacent employment opportunities and Gobowen railway station. Available records of personal injury accidents provide no evidence of any road-safety related-issues on the highway network adjacent to the site.

6.5.5 The applicants have submitted a Transport Assessment, and this concludes that

assessment work undertaken demonstrates that safe and suitable access to the site can be provided from Whittington Road and that, in NPPF terms, the development will have minimal impact on both the operation of the local highway network and highway safety. Based on the assessment, the proposals accord with national, regional and local transport related policies and as such, the proposed development is considered acceptable in respect of transport.

6.5.6 National Highways raise no objection to the proposal and have not requested any improvements to the strategic highway network. As such whilst reference to this matter in Policy S14:1a of the SAMDev is noted, this matter cannot be imposed as it would be considered unreasonable given National Highways comments on the application.

6.5.7 S.C. Highways Manager also raises no objections indicating in response to the application that there are no highway safety or capacity grounds that would justify an objection to consent being granted. The response recommends that conditions are attached to any approval notice issued in respect of construction detail on estate roads, street phasing and completion plan, detail in relation to the Whittington Road ghost island junction to serve the development and that development on site is carried out in accordance with the Travel Plan submitted in support of the application.

6.5.8 Whilst it is considered pedestrian links have not been fully met with regards to the aspirations as set out in the statement of common ground, and SAMDev policy S14.1a i.e. access along the old railway line, the comments made by members of the public and organisations such as Cambrian Heritage Railways Ltd in relation to public access and highway matters and vehicle movements have been considered and are not considered to warrant a recommendation for refusal of this application. The SAMDev was adopted prior to Cambrian Heritage Railways (CHR) being granted statutory powers in 2017 to operate the former railway. CHR have made it clear that the railway line is not disused with the freehold of the line owned by Shropshire Council, with a long lease to CHR who aspire to restore the line and reopen services between Oswestry and Gobowen. The granting of statutory powers to CHR and the future restoration of the line prevents the ability of Cameron Homes to deliver a pedestrian and cycle path link to Gobowen Road given the national presumption against authorising new level crossings. SC Historic Environment have indicated in their response to the application that "It is understood that due to a change in the legal status of the railway line since the adoption of the SAMDev plan in 2015, it is not currently possible to create the footpath linkage to Gobowen Road. For the same reason it is also not possible to create a pedestrian and cycle linkage back to the town centre." Whilst the delivery of the link to Gobowen Road is not possible. Any link from the application site to Gobowen Road would not necessarily provide a more direct route for pedestrians or cyclists from the development site to access the Hill Fort. There are no PROW or permissive routes leading from Gobowen Road that then go on to provide access onto the Hill Fort. The OS map indicates a PROW in this area and that there are no direct links from Gobowen Road to the Hill Fort (other than a PROW link much further north). Rather, to access the Hill Fort any pedestrian or cyclist

would then have to walk south down Gobowen Road, west along Jasmine Gardens and Wat's Drive, and then north along Llwyn Road to access the Hill Fort Car Park and gain pedestrian access onto the Hill Fort itself. This provides no quicker or shorter route than any pedestrian or cyclist leaving the application site via the main access onto Whittington Road and then travelling down Whittington Road to Gobowen Road, Coppice Drive, Wat's Drive and thereon. On this basis it is considered that any link to Gobowen Road would serve no strategic benefit in terms of accessing the Hill Fort by foot or cycle. Also any new link towards the town centre would be on the opposite site of Gobowen Road to the existing footway already along that road. The proposed layout includes new circular footpath routes through the swathe of POS leading from the western boundary with the railway line and along the northern part of the site, including a feature observation point with Hill Fort interpretation boards near to the site's northern boundary, which in turn connects to a pedestrian avenue linking to Whittington Road. It is considered that the requirements of the SAMDev are met through the proposed on-site landscaping strategy which allows pedestrians and cyclists to travel towards the Hill Fort from Whittington Road and to appreciate the Hill Fort when doing so, particularly within the northern and north western parts of the site. This is a significant improvement to the existing situation where pedestrians and cyclists are restricted to viewing the Hill Fort from further away on Whittington Road. In conclusion, whilst the development is unable to deliver the SAMDev requirement of a pedestrian and cycle link to Gobowen Road, as demonstrated above, the scheme is still able to demonstrate improved access towards the Hill Fort. Furthermore, whilst not deliverable, any link onto Gobowen Road itself would not provide any connectivity benefits any more so than the connectivity being provided via the access onto Whittington Road.

6.5.9 In relation to public highway and transportation matters, which includes reference to the Strategic Highway Network, development on site is considered acceptable. As such on highway and transportation grounds, the application on balance overall complies with Policy CS6 in the Shropshire Core Strategy, Policy MD2 of the SAMDev and the NPPF in relation to highway and transportation matters.

6.6 **Drainage**

6.6.1 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 run-off 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 probabilities of river or sea flooding (<0.1%) in any one year.

6.6.2 A Flood Risk Assessment and Drainage Strategy have been submitted in support of the application and this concludes that the site is located within an area of very low to low risk of surface water flooding. Overall, it is deemed that the flood risk to the site is low. Surface water from the proposed development will be drained into the ground via an infiltration basin. The basin will attenuate surface water rainfall

up to the 1 in 100-year return period plus 40% allowance for climate change and a 10% allowance for urban creep. Foul water from the proposed development will be drained by a separate foul water drainage system that will discharge to a foul pumping station via a rising main into the public foul water sewer in Whittington Road.

- 6.6.3 SC Drainage have responded to the application raising some concerns with regards to detail, however, overall raise no objections recommending a condition is attached to any approval notice issued with regards to surface and foul water drainage detail. It is considered such a condition will address minor detail concerns raised.
- 6.6.4 United Utilities raise no objections recommending a condition is attached to any approval notice with regards to protection of a water main that passes through the site.
- 6.6.5 Severn Trent have raised no objections subject to a satisfactory foul and surface water drainage from the site
- 6.6.6 On drainage issues with conditions imposed with regard to surface and foul water drainage and protection of the water main as advised by United Utilities, the application is considered to be in accordance with policies CS6 and CS18 of the Shropshire Core Strategy, Policy MD2 of the SAMDev and the NPPF, and is therefore acceptable.

6.7 Ecology

- 6.7.1 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.
- 6.7.2 The applicants have submitted an Ecological Impact Assessment and its findings have been considered as part of the application processing.
- 6.7.3 SC Planning Ecology have responded that they have reviewed the information and plans submitted in association with the application and that they are happy with the survey work carried out. The Ecological Impact Assessment carried out by Eco Tech (Amended January 2023) determined no substantial change has occurred on site from an original report in November 2018. The majority of the site comprises arable land, with a small region of tall ruderal (vegetation growing on disturbed land), , which is now dense bramble and short perennial vegetation, which is used for storing materials, so is mostly bare ground as of 2022. The response indicates that conditions and informatives are recommended to ensure the protection of wildlife and to provide ecological enhancements in accordance with the NPPF, and local plan policies MD12 and CS17. Conditions recommended by SC Ecology

refer to a badgers' pre-commencement survey, biodiversity net gain on-site provision, wildlife enhancements, a external lighting plan, and all works on site to occur strictly in accordance with the mitigation and enhancement measures regarding bats, badgers and birds as provided in Section 5 of the Ecological Impact Assessment (Eco Tech, amended January 2023). Reference to recommended informatives is set out in paragraph 4.7 above.

- 6.7.4 On ecological and biodiversity issues, with conditions attached as recommended by SC Ecology, the application is considered acceptable and in accordance with Policies CS6 and CS17 of the Shropshire Core Strategy, Polices MD2 and MD12 of the SAMDev the NPPF. and the 2019 Conservation of Habitats and Species (Amendment) (EU Exit) Regulations

6.8 **Residential amenity**

- 6.8.1 Core Strategy policy CS6 requires that developments safeguard residential and local amenity. The applicants have submitted a noise assessment and odour impact assessment in relation to the proposal and these have been considered as part of the considerations in relation to the application.

- 6.8.2 The applicants Noise Assessment concludes that survey work carried out at this site indicates that the overall noise climate is determined by traffic noise from Whittington Road in the southeast and from the A5 in the east. Traffic noise is audible across the site. There was no obvious noise impact from the Kwik Fit, Furrows Skoda car dealership, or W&M Agricultural Engineering Ltd premises during any of the site visits. There was localised noise from activities at Traditional Products Ltd along the western boundary including HGV and general activity. The Assessment considers that noise emissions from these premises would be reduced to acceptable levels at the development site with appropriate boundary treatments and control measures to dwellings. Any reduction of commercial noise achieved at the development site would likely enable this noise to be fully masked by existing traffic noise. Careful design and layout of the residential units has been utilised to minimise the impact of commercial noise on the nearest proposed dwellings, moving dwellings away from the more sensitive western perimeter. Each of these closest dwellings are now single aspect and as such, there are no habitable rooms which directly overlook the Traditional Products Ltd site. The site also benefits from a substantial 2.4-metre-high brick wall which runs along the western site perimeter which will be complimented with a timber fence of equivalent height, along with a 2.0 metre high close boarded timber fence further to the north. BS8233 internal criteria can be achieved for all habitable rooms by use of an appropriate acoustic rated glazing systems and vents to control external noise break-in. It is considered that the BS 8233 internal criteria are achievable on all elevations. BS 8233 external criteria will be achieved for gardens through careful site layout and by provision of screening along boundaries to Whittington Road. BS 8233 external criteria will be achieved for gardens on the western and southern boundaries by provision of screening measures. The measures required to satisfy BS8233 would also enable compliance with the recommendations of ProPG.. The assessment in this report indicates that, provided appropriate control measures are adopted, development of the site for residential use should not

result in any increased constraints upon the commercial premises to the west of the site.

- 6.8.3 SC Public Protection initially responded to the application indicating that on noise issues following on from assessments carried out for the previous application the current proposal has incorporated a single aspect design for properties facing the commercial use to the west of the site which has largely mitigated the impact of commercial noise on these properties. The rear rooms of the houses closest to the commercial use (24-31) would slightly exceed the recommended noise standard. Modelling information has been provided which gives the façade noise levels for the properties to the west of the site. However, modelling and façade noise levels had not been provided for properties to the east of the site that will be impacted by road traffic noise from the A5 and Whittington Road.
- 6.8.4 On receipt of further clarification on noise matters, SC Public/Environmental Protection indicated in relation to noise that the additional noise information provided clarifies that the mitigation scheme proposed in the acoustic report is acceptable if fully implemented. Should it be considered appropriate to grant consent they recommend that a condition is attached referring to the approved mitigation scheme, as detailed in Revision 4 of the Hoare Lea Acoustic report dated 13 March 2023, being completed prior to the first occupation of the development and shall thereafter be retained. In relation to Contaminated Land the SC Public /Environmental Protection response indicates that the report by ASL; Site Investigation, Land at Whittington Road, Oswestry; Report No. 223-18-020- 09 Rev1, dated September 2018 has been submitted in support of this application and that some potential contaminant linkages have been identified that require remediation in the north-west area of the site (gas and soil). Outline remediation proposals have been proposed, but a more detailed remediation strategy is required to include validation proposals. The response recommends a condition in relation to any site investigation report on finding that the site to be further contaminated, that a further report detailing a Remediation Strategy shall be submitted to the local planning for consideration as set out in their response in paragraph 4.11 above.
- 6.8.5 Officers conclude that on noise issues the development is acceptable with a suitably worded condition attached as recommended by Public Protection.
- 6.8.6 The Odour Impact Assessment concludes that the potential sources of odour within the study area have been identified and of these the only two sources

considered capable of giving rise to an odour at detectable concentrations at or within the application site boundary are the smell of worked wood and the smell of wood smoke from the Traditional Products site adjacent to the southwestern boundary of the application site. Based on field observations and dispersion modelling the evidence is that the affected part of the application site is limited to the south-western corner and at this location the effect on amenity would be negligible. The effect of odour on the users of the application site is concluded to be not significant.

6.8.7 The response from SC Public Protection indicated that the conclusions that there is not likely to be any significant impact due to odour from the neighbouring commercial activities is accepted by Officers.

6.8.8 In consideration of residential amenity issues as discussed above, on balance with conditions attached to any approval notice as discussed, the proposal is considered acceptable. With consideration to the site layout and adjacent land uses general residential amenity and privacy issues in relation to individual dwellings forming part of the overall development, as well as residential developments in the surrounding area is also considered acceptable. Therefore with the above in mind, it is considered that the proposal is in accordance with Policy CS6 of the Shropshire Core Strategy, Policy MD2 of the SAMDev and the NPPF in relation to residential amenity and privacy issues.

6.9 **Affordable Housing**

6.9.1 The provision of 10% affordable housing on-site, (8 units), is required in accordance with local plan policy, (Policies CS11, MD3 and Supplementary Planning Document: Type and affordability of Housing), which represents 10% of the housing on site. The applicants propose 4 - 2 bedroomed dwellings, 2 - 1 Bedroomed units and 2 - 3 bedroomed units along with a financial contribution of £25,380. The proposed tenure is for 6 rented units and 2 shared ownership. All are two-storey. The Council's Affordable Housing Officer has indicated the proposal as acceptable.

6.9.2 Whilst comments made about the proposed affordable housing by members of the public and HOOOH, are noted, the proposal is in accordance with the relevant local plan policies and as such deemed acceptable.

6.10 **Other matters**

Section 106 agreement/Heads of Terms - The applicants have agreed to the signing of a Section 106 agreement for the provision of the affordable housing units on site along with the financial contribution of £25,380 which represents the 0.3 provision to make the required amount of 10% affordable housing provision. This will be secured by a Section 106 agreement which will also make reference to the provision on site of public open space and the Hill Fort Viewing platform and their long-term maintenance.

The emerging Draft Shropshire Local Plan (2016-2038) has been through several stages of consultation (Regulation 18 (plan-making) and Regulation 19 (pre-submission)) and the Draft Local Plan was submitted to the Planning Inspectorate for examination on the 3rd September 2021. At the time of writing,

the local plan review has not yet reached a stage where it can be given significant weight in decision making. However, it is noted that this site is a saved site in accordance with the draft local plan.

Sustainability – The site is allocated for housing in accordance with the local plan and thus the sustainability credentials of the site have been thoroughly tested as part of the local plan, adoption process. As such the development is considered sustainable and in accordance with the requirements of the NPPF.

Infrastructure – This ties in with the above-mentioned point and overall sustainability. Further still Community Infrastructure levy, (CIL), will assist with required infrastructure such as increased demand for school places, and if it was considered necessary local road improvements. If this was such a significant issue then this would have been a matter to consider at the site's allocation stage. It is considered current infrastructure is acceptable and it is noted no objections have been received from relevant statutory consultees on this matter.

Brown field land. Concerns have been raised that development should take place on brown field land before consideration to the application site. Whilst it is acknowledged that brown field land is welcomed for re-use, the site is allocated for housing delivery in the local plan.

Lack of connectivity to the town centre. The site is allocated for housing in accordance with the local plan. This matter would have been a consideration when the site was allocated for housing development The site remains allocated and is also allocated for housing in accordance with the local plan review. Oswestry has not exceeded housing targets and this is also a factor to consider in the overall planning balance.

Scale of dwellings - The scale of development on site, considered low-density, is considered acceptable in relation to the site and the surrounding area which includes the built environment.

Tree planting - The site is allocated for residential development and the application proposes significant landscaping and additional tree planting. It is noted the Council's Tree Manager raises no objections.

Status of the railway line alongside the north-western boundary of the site.

Whilst it is acknowledged that in principle this railway line which is not in commercial use as part of the national rail network could be brought back into use by organisations such as the Cambrian Railway, as adequate consideration has been given to the site in relation to the old railway line and whilst it is acknowledged comment has been made about vegetation alongside the railway line, this is no different to many other situations with regards vegetation and railway lines and is a management maintenance issue. Also, with consideration to the landscaping and site layout any potential noise issues as a result of use of the railway line considered acceptable.

Tourism - Concerns have been raised with regards to impacts on tourism as a result of the proposed development. The site is allocated for housing in accordance with the local plan and there is no evidence to justify development as proposed will have a detrimental impact on tourism The Hill Fort will remain as a stand alone landscape and historic attraction surrounded by agricultural land and

uses, residential developments separated by the agricultural land

Need for Housing. The site is allocated for housing in accordance with the local plan and therefore the need is justified in accordance with the local plan.

Planning procedures. Concerns have been raised that the application has not been processed in accordance with relevant planning procedures. The application has been processed in accordance with planning procedures and advertised as such.

Concerns about development not being Carbon Zero. It is considered that the development complies with local plan policies in relation to scale and design and building regulations will cover issues in relation to construction.

Loss of high-quality farmland. The site is allocated for housing in accordance with the local plan. The land is classed as grade 3 in accordance with the agricultural land classification and therefore is not in the higher grades of grade 1 or 2. It is recognised to meet housing needs some greenfield agricultural land is required to meet the need.

Local plan review is scaling back housing growth for Oswestry. The site is allocated for Housing in accordance with the current local plan and its allocation forms part of the expected growth in housing for the settlement concerned.

Overwhelming public opposition to the development. Development of the site is in accordance with the aspirations of the adopted local plan, and it is considered all material planning considerations have been adequately addressed.

Oversupply of buildings suitable for use in relation to affordable housing in Oswestry. The site is located in an affordable housing zone where 10% of any development on site needs to be classed as affordable housing in accordance with the local plan. The development meets this planning requirement.

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 in this report 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 an allocated housing site as set out in S14.1a of the SAMDev

7.3 It is acknowledged that the Local Town Council raise objections to the application primarily in relation to impacts on the significance of the nearby Hill Fort, a scheduled ancient monument, as a consequence of the effects upon its setting, (Oswestry Town Council's objection referring to the Council having previously objected to the inclusion of Osw004 in the Local Plan). It is considered that impacts on the Hill Fort and its setting as well as the historic environment in general is acceptable and in accordance with the local plan policies and the NPPF. This matter has been discussed extensively as part of the formal adoption of the SAMDev local plan, and in detail at section 6.2 of this report, where the planning balance in relation to heritage matters was considered. No objections

have been raised by the Council's Conservation Team, (as set out in detail in paragraph 4.14 of this report), and also no objections raised from Historic England. The numerous objections received from members of the public and non-statutory consultees have also been acknowledged and taken into consideration.

7.4 All material planning considerations have been given careful consideration and it is considered that all matters can be adequately addressed with conditions attached to any approval notice, where considered necessary and this includes reference to impacts on the historic environment, (as well as issues in relation to archaeology, scale and design, landscape and visual impacts, public highway and transportation matters, ecological and biodiversity issues, drainage, residential amenity and privacy which includes reference to adjoining land uses and potential land contamination). As such it is considered that the substantial amount of objections raised in relation to the proposal, do not outweigh the principle of residential development on site as set out in the local plan.

7.5 Any approval notice issued will be accompanied by a Section 106 Agreement in order to satisfy legal issues in relation to provision of affordable housing on site, and provision and management of open space. (It is acknowledged that CIL will capture necessary infrastructure payments). As such the application is considered to comply with Policies CS6, CS9 and CS11 of the Shropshire Core Strategy, Policies MD2 and MD8 of the SAMDev and the National Planning Policy Framework on this matter.

7.6 Taking all the material planning matters into consideration, it is considered the application on balance is acceptable on which basis to make a positive recommendation.

7.7 Whilst the revised local plan is a material consideration, it carries limited planning weight and in any case it is not considered that the application is in conflict with this plan so as to warrant a recommendation of refusal.

7.8 As such the recommendation is one of approval subject to conditions as outlined in appendix 1 attached to this report and the applicants signing a Section 106 agreement in order to ensure provision of the required amount of affordable housing on site (8 units plus a financial contribution of £25,380 as the 0.3 housing contribution to make up to 10% affordable housing provision), and provision and maintenance of the required open space and Hill Fort viewing area on site, as the application is considered overall to be in accordance with the local plan as a whole and in relation to key Policies CS6, CS8, CS9, CS11, CS17 and CS18 of the Shropshire Core Strategy, Policies MD2, MD8, MD12 and S16 of the SAMDev, the National Planning Policy Framework as well as the 2019 Conservation of Habitats and Species (Amendment) (EU Exit) Regulations.

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. It is not considered that this development has any detrimental impacts in relation to equality issues.

9.0 Financial Implications

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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
CS3 - The Market Towns and Other Key Centres
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: S14 - Oswestry
National Planning Policy Framework
SPD Developer Contributions
SPD Sustainable Design Part 1

RELEVANT PLANNING HISTORY:

PREAPP/09/70108 Proposed development of land for employment purposes PRRQD 5th May 2009

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18/02760/SCR Residential Development EIA 6th August 2018

19/02685/EIA Proposed residential development of 52No dwellings with associated access, public open space, electricity sub-station, drainage and landscaping WDN 9th March 2020

19/02686/EIA Residential development of 48 dwellings with associated access, public open space and landscaping (revised description) WDN 9th March 2020

20/01033/EIA Proposed residential development of 83No. dwellings with associated access, public open space, electricity sub-station, drainage and landscaping.

REFUSE 28th March 2022

22/04686/SCR Proposed residential development of 83No. dwellings with associated access, public open space, electricity sub-station, drainage and landscaping. EAN 14th November 2022

23/00225/FUL Proposed residential development of 83 dwellings with associated access, public open space, electricity sub-station, drainage and landscaping (re-submission) PDE

11. Additional Information

View details online: <http://pa.shropshire.gov.uk/online-applications/applicationDetails.do?activeTab=summary&keyVal=ROP3QZTDLRX00>

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 Chris Scofield

Local Member

Cllr John Price Cllr Chris Schofield

Appendices APPENDIX 1 - Conditions

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APPENDIX 1

Conditions

STANDARD CONDITION(S)

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

Reason: To comply with Section 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.

CONDITION(S) THAT REQUIRE APPROVAL BEFORE THE DEVELOPMENT COMMENCES

3. No construction shall commence until details of the means of ensuring the water main that is laid within the site boundary is protected from damage as a result of the development have been submitted to and approved by the Local Planning Authority in writing. The details shall outline the potential impacts on the water main from construction activities and the impacts post completion of the development on the water main infrastructure that crosses the site and identify mitigation measures to protect and prevent any damage to the water main both during construction and post completion of the development. Any mitigation measures shall be implemented in full in accordance with the approved details.

Reason: In the interest of public health and to ensure protection of the public water supply.

4. Within 90 days prior to the commencement of development, a badger inspection shall be undertaken by an appropriately qualified and experienced ecologist and the outcome reported in writing to the Local Planning Authority. If new evidence, or a change in status, of badgers is recorded during the pre-commencement survey then the ecologist shall submit a mitigation strategy for prior approval that sets out appropriate actions to be taken during the works. These measures will be implemented as approved.

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

5. Before any construction works hereby approved are commenced, a Construction Environment Management Plan (CEMP) and Habitat Management Plan (HMP) expanding upon the information provided within the Biodiversity Metric, Landscape Plan and Ecological Impact Assessment documents detailing, in full, measures to protect existing habitat during

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construction works and the formation of new habitat, to secure a habitat compensation value of at least 40% 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 30 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.

6. No ground clearance, demolition, or construction work shall commence until a scheme has been submitted to and approved in writing by the local planning authority to safeguard trees to be retained on site as part of the development. The approved scheme shall be implemented in full prior to the commencement of any demolition, construction or ground clearance and thereafter retained on site for the duration of the construction works.

Reason: To safeguard existing trees and/or hedgerows on site and prevent damage during building works in the interests of the visual amenity of the area, the information is required before development commences to ensure the protection of trees is in place before ground clearance, demolition or construction.

7. 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 prior to occupation of the development within any such phase.

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;

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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.

8. 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.

9. No development approved by this permission shall commence until the applicant, or their agents or successors in title, has secured the implementation of a phased programme of archaeological work in accordance with a written scheme of investigation (WSI). This written scheme shall be approved in writing by the Planning Authority prior to the commencement of works.

Reason: The development site is known to have archaeological interest.

10. No development shall take place until a scheme of surface and foul water drainage which includes the adequate conveyance of both the culverted watercourse and overflow from the Vyrnwy Aqueduct throughout the site has been submitted to and approved in writing by the Local Planning Authority. The approved scheme shall be fully implemented before the development is occupied/brought into use (whichever is the sooner).

Reason: The condition is a pre-commencement condition to ensure satisfactory drainage of the site and to avoid flooding.

11. No development approved by this permission shall commence until details of the roofing materials and the materials to be used in the construction of the external walls shall be submitted to and approved in writing by the Local Planning Authority. The development shall be carried out in complete accordance with the approved details.

Reason: To ensure that the impacts of the development on the setting of designated heritage assets are minimised.

12. No development approved by this permission shall commence until a lighting design that minimises skyglow has been submitted to and approved in writing by the local planning authority. The lighting shall be carried out in complete accordance with the approved details

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Reason: To ensure that the impacts of the development on the setting of designated heritage assets are minimised.

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

13. Prior to the erection of any external lighting on the site, a lighting plan shall be submitted to and approved in writing by the Local Planning Authority.

The lighting plan shall demonstrate that the proposed lighting will not impact upon ecological networks and/or sensitive features, e.g. bat and bird boxes, trees, and hedgerows. The submitted scheme shall be designed to take into account the advice on lighting set out in the Bat Conservation Trust's Guidance Note 08/18 Bats and artificial lighting in the UK. The development shall be carried out strictly in accordance with the approved details and thereafter retained for the lifetime of the development.

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

14. All works to the site shall occur strictly in accordance with the mitigation and enhancement measures regarding bats, badgers and birds as provided in Section 5 of the Ecological Impact Assessment (Eco Tech, amended January 2023).

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

15. a) In the event of the Site Investigation Report finding the site to be contaminated a further report detailing a Remediation Strategy shall be submitted to and approved in writing by the Local Planning Authority. The Remediation Strategy 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. b) The works detailed as being necessary to make safe the contamination shall be carried out in accordance with the approved Remediation Strategy. c) 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 DEFRA and the Environment Agency's 'Model Procedures for the Management of Land Contamination, CLR 11' 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

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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. d) 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.

16. Prior to the development hereby permitted being first occupied the Whittington Road ghost island junction to serve the development 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 highway safety.

17. Upon the development hereby permitted being first occupied the Travel Plan shall be implemented in accordance with the approved details: the Travel Plan shall therefore remain in force for the lifetime of the development.

Reason: To promote sustainable travel in the interests of reducing car born traffic.

18. Works on site in relation to landscaping shall be carried out in accordance with detail as set out in the detail submitted in support of the application, Landscape Management Plan reference P22 - 2497 - March 2023 - Revision A. The open space adjacent to the northern boundary of the site will be laid out in its entirety by the end of the first planting season after commencement of development . All other works will be carried out and completed prior to occupation of the remaining dwellings on site.

Reason: In consideration of the visual impacts and amenity of the surrounding area.

19. Prior to occupation of any dwellings on site detail will be submitted to the Local Planning Authority and approved in writing with regards to the submission of details of the observation point and interpretive material relating to the Hillfort site, and its longterm maintenance. Detail will be carried out as approved in accordance with an agreed timetable to be submitted as part of the submission details.

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Reason: In consideration of the visual importance of the Hill Fort and its historic and landscape value.

20. Prior to first occupation / use of the buildings, the makes, models, and locations of wildlife boxes/enhancements shall be submitted to and approved in writing by the Local Planning Authority.

The following boxes shall be erected on the site:

- 1 in every 3 proposed dwellings will have an external woodcrete bat boxes or integrated bat bricks, suitable for nursery or summer roosting for small crevice dwelling bat species.
- 1 in every 3 proposed dwellings will have artificial nests, of integrated brick design, suitable for swifts (swift bricks).
- A minimum of 15 artificial nests, of either integrated brick design or external box design, suitable for starlings (42mm hole, starling specific), sparrows (32mm hole, terrace design), house martins (house martin nesting cups), swallows (swallow nesting cups) and/or small birds (32mm hole, standard design).
- A minimum of 10 invertebrate bricks shall be incorporated into the site design.
- A minimum of 3 hedgehog domes (standard design) will be incorporated into the site design.
- A minimum of 2 hibernaculum shall be created, suitable for amphibians.

The boxes/enhancements shall be sited in suitable locations, with a clear flight path and where they will be unaffected by artificial lighting. The boxes shall thereafter be maintained for the lifetime of the development.

For swift bricks: Bricks should be positioned 1) Out of direct sunlight 2) At the highest possible position in the building's wall 3) In clusters of at least three 4) 50 to 100cm apart 5) Not directly above windows 6) With a clear flightpath to the entrance 7) North or east/west aspects preferred. (See <https://www.swift-conservation.org/Leaflet%204%20-%20Swift%20Nest%20Bricks%20-%20installation%20&%20suppliers-small.pdf> for more details).

Reason: To ensure the provision of roosting and nesting opportunities, in accordance with MD12, CS17 and section 180 of the NPPF.

21. The approved mitigation scheme, as detailed in Revision 4 of the Hoare Lea Acoustic report dated 13 March 2023, shall be completed prior to the first occupation of the development and shall thereafter be retained for the lifetime of the development.

Reason: To protect residential amenity, health and wellbeing.

Informatives

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1. 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 and scrub removal 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.

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

Badgers are a highly mobile species and are known to create new setts and abandon and re-use existing setts in relatively short periods of time.

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

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

3. 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 2006 Natural Environment and Rural Communities Act. Reasonable precautions should be taken during works to ensure that these species are not harmed.

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

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

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

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

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

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

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

If a Great Crested Newt is discovered at any stage then all work must immediately halt and an appropriately qualified and experienced ecologist and Natural England (0300 060 3900) should be contacted for advice. The Local Planning Authority should also be informed.

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

Hedgerows are more valuable to wildlife than fencing. Where fences are to be used, these should contain gaps at their bases (e.g. hedgehog-friendly gravel boards) to allow wildlife to move freely.

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