



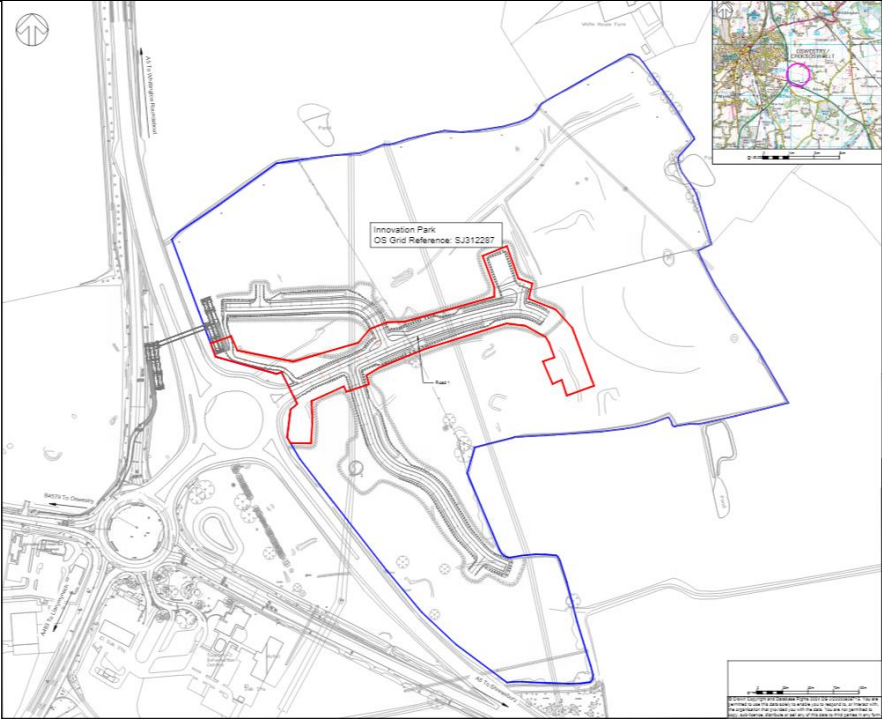
Committee and date
Northern Planning Committee
21 st January 2025

Development Management Report

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

Summary of Application

<u>Application Number:</u> 24/04641/AMP	<u>Parish:</u>	Oswestry Rural
<u>Proposal:</u> Non material amendment to shorten the length of the road and to remove a number of vehicle access points from Road 1 to the proposed plots of the Oswestry Innovation Park relating to Planning Permission 21/01334/EIA		
<u>Site Address:</u> Proposed Development Land Off Mile End Roundabout Oswestry Shropshire		
<u>Applicant:</u> Shropshire Council		
<u>Case Officer:</u> Ollie Thomas	<u>email:</u> ollie.thomas@shropshire.gov.uk	

<u>Grid Ref:</u> 330960 - 328640

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Recommendation:- Grant Permission due to the proposed amendment being

considered non-material when having regard to the effect of the original permission.

REPORT

1.0 THE PROPOSAL

- 1.1 This application is seeking permission for a non-material amendment to the previously approved planning application, ref: 21/01334/EIA, to amend the approved drawings and plans (Condition 5) to show the removal of vehicle access points from Road 1, within the site. The change is being sought as a result of ongoing design review by the applicant, whereby as the end operators are not yet known, the provision of access spurs serving individual plots has been deemed an unnecessary requirement. Instead once end-users are identified, the access junctions can be submitted for approval based on their specific requirements alongside the detailed matters associated with the operators needs for any new buildings/structures.
- 1.2 The removed access points will be replaced by hardstanding to provide continuous footway/cycleway on both sides of Roads 2 and 3. In addition, the total length of Road 1 has been shorted by 72 metres to allow for flexibility on the disposal and development of the plots.
- 1.3 There have been no previous amendments to the original planning permission, either through s96A (non-material) or s73 (variation) of the Town and Country Planning Act 1990. However, there is a concurrent non-material amendment being sought for the same site and in relation to the reserved matters application that granted the internal roads. Whilst the changes proposed are linked in that they consider the same site and are seeking similar changes, they are not interdependent on one another.

2.0 SITE LOCATION/DESCRIPTION

- 2.1 The application site extends to an area of 1.18 hectares and is surrounded largely by open countryside. The surrounding land use is predominantly agricultural to the east and north east, residential to the northwest and commercial to the west due to Maesbury Road Industrial Estate. In addition to agricultural land, the south consists of some commercial use at Mile End Service Area and some recreational use provided by the Mile End Golf Club. The A5 public highway runs parallel to the west of the site and the A483 and Mile End Roundabout forms the main access point for the site.
- 2.2 The planning permission to which this amendment relates has been previously implemented and earthworks have been undertaken which has resulted in a material change in the character and setting of the site and is experiencing heightened activity through construction operations.

3.0 REASON FOR COMMITTEE DETERMINATION OF APPLICATION

- 3.1 This application does not meet the criteria for delegated decisions as set out in the Council's adopted Scheme of Delegation, given the application has been submitted by Shropshire Council to itself which also acts as the Local Planning Authority. The application is therefore presented to Planning Committee for determination.

4.0 Community Representations

- 4.1 As an application to make a non-material amendment is not an application for planning permission, the provisions relating to statutory consultation and publicity do not apply. The Local Planning Authority has discretion in whether and how they choose to inform other interested parties or seek their views.
- 4.2 Whilst the changes being sought are non-material, the LPA has nonetheless sought the views of the Local Highways Authority only. This is in recognition that the proposed changes are in relation to amendments to the internal access arrangements serving individual plots, with no impact on the wider highway network or any other external environmental factors.

4.3 Consultee Comment

4.4 SC Highways - No objections

No objection is raised to the removal of access point currently showing on the current planning consent, acknowledging that these will come forward as part of separate Plot applications where the site layouts and building footprints will determine the precise access locations. The proposals have no material highway impact upon the adjacent Mile End Roundabout.

4.5 Public Comments

- 4.6 As by definition the changes being sought are non-material, the LPA has not carried out any publicity during the determination of this application.

5.0 THE MAIN ISSUES

Whether the proposed amendment is considered 'non-material' to the original grant of permission.

6.0 OFFICER APPRAISAL

6.1 Flexibility for planning permissions

- 6.1.1 When planning permission is granted, development must take place in accordance with the permission and conditions attached to it, and with any associated legal agreements. Notwithstanding, it is accepted that new issues may arise after planning permission has been granted. Where these modifications are less substantial, the planning system has provisions in place to make non-material

amendments to the original permission. Such amendments can take the form of revisiting planning conditions imposed on the original permission, imposing new conditions or altering the proposed description.

- 6.1.2 There is no statutory definition of 'non-material', instead it is dependent on the context of the overall scale of development and regard must be had to the effect of the change, together with any previous changes. It can therefore be said that if a change is to be considered as 'material', it must be of significance and conversely for a change to be 'non-material', where there is no resultant harm (in planning terms), this can be considered as lacking in materiality.

6.2 Significance and harm

- 6.2.1 The original planning permission granted *inter alia* the formation of a 360m spine road; two 3.5m wide foot and cycleways; and, one 2m wide footpath, on land off Mile End Roundabout to support the creation of a new 'Oswestry Innovation Park'. The wider site was allocated for employment use under the adopted Local Plan, with the planning permission granting a range of commercial and employment uses, alongside hotel use and other retail, restaurant, financial and professional services.
- 6.2.2 The original application was submitted in hybrid, with full details submitted to deliver the required on-site infrastructure and outline details for the proposed mix of uses.
- 6.2.3 As mentioned above, the provision of access junctions serving individual plots within the employment site is considered unnecessary at this early stage of the development programme, where end-users are not yet identified. Whereby should the access spurs be installed as previously approved, this would likely result in deterring potential operators due to unacceptable access arrangements specific to their needs, and/or require amended plans to be submitted at a later date. The proposed changes are therefore ensuring the greatest flexibility in attracting local, regional and national operators to the site.
- 6.2.4 As confirmed by the Local Highways Authority, the proposed changes raise no material impact on the local highway network or upon the adjacent Mile End Roundabout. This is on the basis, that the installation of the access junctions as previously approved would not result in any vehicle movements, as the site would not become operational until such time detailed matters are provided for the individual plots.

6.3 The effect of the change on the original permission, as granted

- 6.3.1 In determining the above judgement that the proposed change is neither of any significance or harm, when considered against the original planning permission. The application is therefore recommended for approval.

7.0 CONCLUSION

7.1 The proposed amendments to the previously approved plans and drawings, to show the removal of individual access points, are considered non-material when having regard to the effect of the change proposed on the planning permission as previously granted.

7.2 It is Officer's recommendation that permission be **GRANTED**.

7.3 It is Officer's view that in granting this application, no new conditions need imposing, or the deletion of existing conditions attached to the original permission.

8.0 Risk Assessment and Opportunities Appraisal

8.1 Risk Management

The principal risk associated with this recommendation is as follows:

- 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.

This risk need to be balanced against the risk of not proceeding to determine the application.

8.2 Human Rights

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

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

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

8.3 Equalities

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

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

9.0 Financial Implications

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

10. Background

RELEVANT PLANNING HISTORY:

20/03871/SCR Proposed Innovation Park on land to the East of Oswestry SCO 8th January 2021

20/04574/SCO Scoping Opinion for the proposed development at Oswestry Innovation Park SCO 8th January 2021

21/01334/EIA Hybrid Planning Application for:

Full planning permission - formation of a 360m spine road; two 3.5m wide foot and cycleways; one 2m wide footpath; one electricity substation; supporting utilities infrastructure; drainage system; landscaping and ancillary works;

Outline planning permission - 10 plots to be delivered in four phases, providing:

- a hotel (use class C1) up to 30,000sq. ft;
- three units providing up to 6,000sq. ft of hospitality and up to 3000sq. ft of services;
- five mixed use units providing general industry with ancillary office (B2 & E) providing up to 180,000sq. ft;
- one office unit (use class E) providing up to 15,000sq. ft;
- one light industrial unit (use class E) providing up to 63,000sq. ft;
- two mixed use units providing storage/distribution with ancillary office (B8 & E) providing up to 200,000sq. ft;
- the provision of green infrastructure and all ancillary works. GRANT 13th July 2021

11. Additional Information

View details online: <http://pa.shropshire.gov.uk/online-applications/applicationDetails.do?activeTab=summary&keyVal=SO366HTDM5600>

containing exempt or confidential information)

Cabinet Member (Portfolio Holder) - Councillor Chris Schofield

Local Member

Cllr Joyce Barrow

Appendices - N/A