

Shropshire Council
Legal and Democratic Services
Shirehall
Abbey Foregate
Shrewsbury
SY2 6ND

Date: Monday, 20 July 2020

Committee:
Southern Planning Committee

Date: Tuesday, 28 July 2020

Time: 2.00 pm

Venue: THIS IS A VIRTUAL MEETING - PLEASE USE THE LINK ON THE AGENDA TO LISTEN TO THE MEETING

Members of the public will be able to listen to this meeting by clicking on this link: [Click this link to view the meeting](#)

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- You will need to download MS Teams (free) and click on the link to listen to the meeting if you are using a PC
- If using a mobile device, you will need to download the MS Teams app (free) before clicking the link
- Use the link at 2.00 pm on the day of the meeting and click on 'Join as Guest'
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The Council's procedure for holding Virtual Planning Committees can be found by clicking on this link: <https://www.shropshire.gov.uk/planning/applications/planning-committees/>

You are requested to attend the above meeting.
The Agenda is attached

Claire Porter
Director of Legal and Democratic Services (Monitoring Officer)

Members of the Committee

David Evans (Chairman)
David Turner (Vice-Chair)
Andy Boddington
Simon Harris
Nick Hignett
Richard Huffer
Cecilia Motley
Tony Parsons
Madge Shingleton
Robert Tindall
Tina Woodward

Substitute Members of the Committee

Roger Evans
Nigel Hartin
Christian Lea
Elliott Lynch
Dan Morris
Kevin Pardy
William Parr
Kevin Turley
Claire Wild
Leslie Winwood
Michael Wood

Your Committee Officer is:

Tim Ward Committee Officer

Tel: 01743 257713

Email: tim.ward@shropshire.gov.uk

AGENDA

1 Apologies for Absence

To receive any apologies for absence.

2 Minutes (Pages 1 - 4)

To confirm the minutes of the South Planning Committee meeting held on 30 June 2020

Contact Tim Ward (01743) 257713

3 Public Question Time

To receive any questions or petitions from the public, notice of which has been given in accordance with Procedure Rule 14. The deadline for this meeting is no later than 2.00 pm on Friday 24 July 2020.

4 Disclosable Pecuniary Interests

Members are reminded that they must not participate in the discussion or voting on any matter in which they have a Disclosable Pecuniary Interest and should leave the meeting prior to the commencement of the debate.

5 Norton Farm Pit, Condover, Shrewsbury, Shropshire, SY5 7AR (19/01261/MAW) (Pages 5 - 50)

Application for a southern extension to the existing sand and gravel quarry, retention of all existing operational facilities and site access and revised restoration of the existing site

6 Withypool Farm, Cleobury Mortimer, Kidderminster, Shropshire DY14 0DB (19/03637/VAR) (Pages 51 - 72)

Variation of condition no.8a (max. tonnage of materials imported) pursuant of 15/02626/MAW to allow for an increase in tonnage per annum

7 Land Adjacent Linney House, The Linney, Ludlow (19/00826/FUL) (Pages 73 - 106)

Erection of 8 No Dwellings with Car Shelters, Reprofiling of Ground; Restoration of Stone Boundary Wall and Creation of 2 No Vehicular Access Points.

8 Proposed Holiday Let At Netley Old Hall Farm Dorrington Shrewsbury Shropshire (20/00802/FUL) (Pages 107 - 120)

Erection of 1 No. holiday let lodge

9 Crimond 85 Ludlow Road Church Stretton SY6 6RA (20/01847/FUL) (Pages 121 - 140)

Erection of replacement dwelling and alterations, including erection of detached annex and construction of garden bridge.

10 Schedule of Appeals and Appeal Decisions (Pages 141 - 146)

11 Date of the Next Meeting

To note that the next meeting of the South Planning Committee will be held at 2.00 pm on Tuesday, 25 August 2020



Committee and Date

Southern Planning Committee

28 July 2020

SOUTHERN PLANNING COMMITTEE

Minutes of the meeting held on 30 June 2020

2.00 - 3.30 pm

Virtual meeting held via Microsoft Teams Live

Responsible Officer: Tim Ward

Email: tim.ward@shropshire.gov.uk Tel: 01743 257713

Present

Councillors David Evans (Chairman), David Turner (Vice-Chair), Andy Boddington, Simon Harris, Nick Hignett, Richard Huffer, Cecilia Motley, Tony Parsons, Madge Shineton, Robert Tindall and Tina Woodward

109 Apologies for Absence

There were no apologies for absence

110 Minutes

RESOLVED:

That the Minutes of the meeting of the Southern Planning Committee held on 2 June 2020 be approved as a correct record and signed by the Chairman.

111 Public Question Time

There were no public questions

112 Disclosable Pecuniary Interests

Members were reminded that they must not participate in the discussion or voting on any matter in which they had a Disclosable Pecuniary Interest and should leave the room prior to the commencement of the debate.

113 1 Weir Road Hanwood Shrewsbury SY5 8JZ (20/01341/FUL)

The Principal Planner introduced the application which was an application for the demolition of garage outbuilding and erection of a single dwelling with new access and parking area, and with reference to the drawings and photographs displayed, he drew Members' attention to the location, layout and elevations.

The Principal Planner drew Members attention to the information contained in the list of late representations

In accordance with virtual meeting speaking protocol the following Public Speaker statements were read out:

- Nick & Lisa Ferriday in objection to the proposal
- Great Hanwood Parish Council in objection to the proposal
- Councillor Roger Evans, the local Ward Councillor, in objection to the proposal. (In accordance with the public speaking protocol, Cllr Evans read out his own statement)
- Base Architects, on behalf of the applicant in support of the application

During the ensuing debate Members noted the concerns expressed regarding highway safety issues and the visual impact of the proposal. However, Members considered that the single dwelling proposed would not adversely affect highway safety, would be an enhancement to the street scene and this outweighed the addition of one dwelling to the number of new dwellings which have already been permitted in the settlement above the guideline figure set out in the Development Plan.

Having considered the submitted plans and listened to the comments made by all of the speakers, it was

RESOLVED:

That in accordance with the Officers recommendation permission be granted subject to the conditions set out in Appendix 1.

114 28 High Street Cleobury Mortimer DY14 8DQ (20/01496/FUL)

In accordance with the Local Protocol for Councillors and Officers dealing with Regulatory Matters (Part 5, Paragraph 15) Councillor Madge Shingleton, local Ward Councillor, having submitted a statement, took no part in the debate and did not vote on this item.

The Principal Planner introduced the application which was an application for the change of use of from retail to residential together with minor internal alterations affecting a Grade II Listed Building, and with reference to the drawings and photographs displayed, he drew Members' attention to the location, layout and elevations. He advised members that this report covered the change of use and the next agenda item covered the listed building consent.

In accordance with virtual meeting speaking protocol the Solicitor read a statement from Councillor Madge Shingleton, the local ward Councillor, in support of the proposal.

During the ensuing debate Members noted that the building had not been able to be let for commercial purposes and felt that the proposals would preserve the fabric of the listed building

RESOLVED:

That in accordance with the Officers recommendation permission be granted subject to the conditions set out in Appendix 1.

115 28 High Street Cleobury Mortimer DY14 8DQ (20/01497/LBC)

In accordance with the Local Protocol for Councillors and Officers dealing with Regulatory Matters (Part 5, Paragraph 15) Councillor Madge Shingleton, local Ward Councillor, having submitted a statement, took no part in the debate and did not vote on this item.

RESOLVED:

That in accordance with the Officers recommendation permission be granted subject to the conditions set out in Appendix 1.

116 Pool Orchard Donkey Lane Ashford Carbonell SY8 4DA (20/01782/FUL)

The Principal Planner introduced the application which was an application for the erection of a single storey rear extension with lantern roof light, the replacement of existing entrance door with window, and the installation of new entrance door and porch canopy and associated works, and with reference to the drawings and photographs displayed, he drew Members' attention to the location, layout and elevations

Members agreed that the proposals were acceptable

RESOLVED:

That in accordance with the Officers recommendation permission be granted subject to the conditions set out in Appendix 1.

117 Schedule of Appeals and Appeal Decisions

RESOLVED:

That the Schedule of Appeals and Appeal Decisions for the southern area as at 30 June 2020 be noted.

118 Date of the Next Meeting

RESOLVED:

That it be noted that the next meeting of the South Planning Committee will be held at 2.00 pm on Tuesday, 28th July 2020

Signed (Chairman)

Date:



Committee and date

South Planning Committee

28th July 2020

Development Management Report

Summary of Application

Application Number: 19/01261/MAW	Parish:	Condover
Proposal: Application for a southern extension to the existing sand and gravel quarry, retention of all existing operational facilities and site access and revised restoration of the existing site		
Site Address: Norton Farm Pit, Condover, Shrewsbury, Shropshire, SY5 7AR		
Applicant: Hanson Quarry Products Europe Limited		
Case Officer: Graham French		email: planningdmc@shropshire.gov.uk

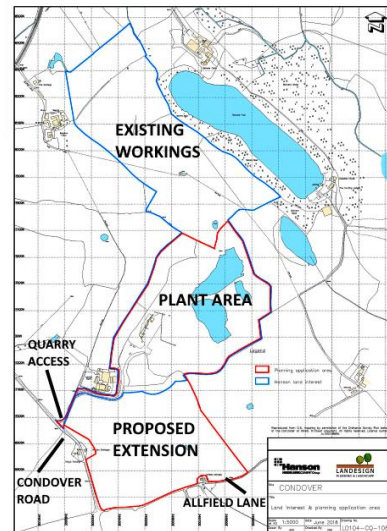


Fig 1 – Location Plans

Recommendation:- Grant Permission subject to the conditions and legal obligations set out in Appendix 1.

REPORT

1. THE PROPOSAL

1.1 The applicant Hanson is a leading supplier of building materials and operates Condover Quarry as part of its sand and gravel business. Hanson is a leading supplier of heavy building materials to the construction industry, producing aggregates (crushed rock,

sand and gravel), ready-mixed concrete, asphalt, cement and cement related materials. The site has received several previous planning permissions dating back to the 1960's which allow excavation and processing of sand and gravel.

Fig 2 – Phasing and restoration



Phase 1



Phase 2



Phase 3



Restoration

1.2 The current proposal is for a new mineral extraction area (“the proposed extension”) which adjoins the southern part of the existing quarry and would use the existing quarry plant site, administration and access facilities. The proposed extension is a single large arable field with an area of 22 hectares. The mineral reserve is restricted to the north-western half of the field. The south-eastern half would be used for temporary soil storage and to carry out agricultural land improvements. The extension falls within a total planning application area of 44.3 hectares including plant and processing areas.

- 1.3 The proposed extension would release circa 2.854 million tonnes of high-quality sand and gravel, increasing the operational life of the site by approximately 14-15 years at an annual output of 200,000 tonnes per annum.
- 1.4 The existing sand and gravel processing plant, stocking areas, weighbridge, quarry office, workshop and stores are all located in an area close to Norton Farm, some 100 metres north of the proposed extension and would be connected by an internal access road and field conveyor system. Working and restoration would take place progressively and in separate phases which have been designed to minimise environmental effects and maximise screening. Restoration would be to a mix of open water, amenity / nature conservation and agricultural uses.
- 1.5 All vehicles associated with the quarry operation are weighed, loaded and dispatched from the plant site and stock yard. A wheel wash and vehicle sheeting facility are located along the access road. No HGV road traffic passes any further into the Site than the plant site and stocking area. All traffic is restricted to entering and leaving the quarry via the Condover Road to the A49 at Bayston Hill rather than via Condover village which has limitations for heavy vehicles. Only deliveries to Condover village are allowed to turn left from the quarry entrance. Routing restrictions are already enforced by a legal agreement which would be reapplied to the current application.
- 1.6 The proposals involve provision of a permissive footpath linking the villages of Condover and Bayston Hill which would be delivered through a section 106 Legal Agreement.
- 1.7 Permitted mineral reserves in the existing quarry are nearly exhausted. The proposed extension would allow continuation of an existing business which has been in operation for over 55 years. If the extension did not proceed Hanson would have to consider reactivating mineral operations at one of its' dormant Shropshire sites (Sleap Airfield or Cound Quarry). This would have potential implications for existing uses of these sites including the Sleap Aeroclub who have written in support of the current application.
- 1.8 The current application is a revision to two previous planning withdrawn applications (17/02833/MAW and 17/02834/VAR) and combines the proposals in those applications into a single planning application. Various changes to the scheme have been made as part of the consideration of these previous applications. Consequently, the working schemes now proposed includes larger stand offs between the southern screen bund and residential properties at Allfield Cottages as well as a 'sacrificial' planting screen on part of the southern bund. Deferment to the timing of the construction of the western bund (nearest to Norton Cottage) is now also proposed, with the intention of reducing the duration of any visible quarrying operations on receptors along Condover Road.
- 1.9 The application is accompanied by an Environmental Statement submitted under Schedule 1 of the Environmental Impact Assessment Regulations 2017. This includes a series of reports which address the main environmental issues raised by the proposals and put forward appropriate mitigation measures where appropriate.
2. SITE LOCATION / DESCRIPTION
- 2.1 Condover Quarry is located to the east of the A49 Shrewsbury to Leominster road approximately 4km south of Shrewsbury, between the villages of Bayston Hill to the

north and Condover to the south (Fig 1). The closest residential properties within the local area are those located on Allfield Lane to the immediate south, on Condover Road and at Norton Farm. The Site is accessed by a purpose built tarmac access road from Condover Road at Norton Farm. The existing quarry and proposed extension are situated within gently rolling countryside which incorporates farmland, woodland and wetland.

- 2.2 The extension area comprises a single square shaped arable field on the southern side of the existing quarry. It is bounded to the north by the existing quarry, to the west by the Condover Road, to the south by Allfield Lane and to the east by agricultural land forming part of Allfield Farm. The quarry and the proposed extension do not incorporate any statutorily designated areas, the nearest being Bomere Pool (750m to the north east of the extension) which is classified as a RAMSAR and SSSI site. To the north, immediately west of Tarmac's Bayston Hill Quarry lies 'the Burgs,' a Scheduled Monument (1570m from the extension). A further Scheduled monument also sits on the eastern shore of Bomere Pool. Both these sites are remote from Condover Quarry and the proposed extension.
- 2.3 The land rises sharply at Lyth Hill some 1.5 km to the west, (from 90m to 165 meters AOD). This area incorporates a country park with longer distance views of eastern Shropshire, the Wrekin and the Southern Shropshire Hills, some of which incorporate the site in the middle distance.
- 2.4 A short sand and gravel ridge rises to 101m AOD through the centre of the field trending approximately north – south. The perimeter of the field sits at between 82 and 84 m AOD on the north west and south boundaries. The farmer advises that the land is difficult to farm in places due to the steep slopes.
- 2.5 The land occupied by the quarry and proposed extension was formerly part of Norton, Bayston and Allfield Farms. To the north east lies Bomere Wood and Pool; to the north and north west lies Berries Lane, the Shrewsbury to Cardiff railway line and north of that, the village of Bayston Hill including Tarmac's Bayston Hill quarry. To the south and west the land surrounding the quarry is agricultural and generally in arable use.

3. REASON FOR COMMITTEE DETERMINATION OF APPLICATION

- 3.1 The proposals comprise Schedule 1 EIA development and the Council's Scheme of Delegation requires that such applications are determined by Planning Committee.

4. COMMUNITY REPRESENTATIONS

- 4.1.i. Condover Parish Council: At its meeting on 2nd April 2019, Condover Parish Council resolved to neither support nor object to this planning application on the basis that although previous confirmations sought referring to consultation with immediate neighbours to the site, the direction of traffic to the A49, and the community benefit to be achieved had been received, matters referring to footpaths remained unresolved.
- ii. Further clarification and confirmation was required that the permissive footpath provided for in application SC/MS2008/1225/SY would be opened promptly (even if a temporary diversion were necessary to make this happen). A new public footpath had been

requested as part of the restoration plan from Norton crossroad (Allfield / Condover junction) to link with both the public footpath from Norton Farm to Bayston Hill and to the permissive footpath referred to above. This new public footpath would improve village sustainability by providing the missing link allowing pedestrians to walk between the two villages of Condover and Bayston Hill without the need to walk along an increasingly busy road which currently has no footpath provision.

- 4.2i. Environment Agency (11/02/2020): No objection. The latest submission confirms that no dewatering has taken place since 2006 at the quarry and details when the new abstraction license process for future dewatering might be commenced. We previously sought some information to clarify the potential impact upon private water supply within the Kame deposits in particular and to provide an appropriate level of assessment, as part of the EIA, on those matters that are relevant to the abstraction licence (permit to abstract).
- ii. The main issue we felt remained was obtaining confirmation, as part of a comprehensive water features survey, for the EIA, that none of the properties identified as having potential private groundwater abstractions would be at risk. We sought clarification to confirm if they did exist or not, so they could be ruled out. The latest Technical Note, although it does not include any formal documentation, states that checks have been carried out with the local authority's private supplies register which show none are present within 2km of the site. It is also stated that a Severn Trent Water Limited main is present and that the likelihood is that properties are connected. We do not disagree with this assumption, however private water supplies can be used by for other purposes than potable water.
- iii. We understand that the dewatering activity will not commence until 9 years (due to the depth of the water table) after work starts and that 2 years prior to this an abstraction licence (permit to abstract) will be applied for. We acknowledge that as part of this application a water features survey will be necessary and carried out as part of the permit to abstract. The statement confirms that this will have to demonstrate "that there will be, no mitigated impact on other abstractors, protected rights to abstract, or water related environmental features". We think this should read no impact. We agree that a comprehensive water features survey will be essential as part of this application and we would expect this to be addressed as part of that process.
- iv. Limited information is provided at this stage and on the basis of the above the abstraction licence application is not twin tracked. We would require the applicant to submit an updated Hydrogeological Impact Appraisal for the dewatering activity at the point in time that an application for a new licence to abstract is submitted. This would seek to ensure the effects of the dewatering activity are adequately characterised and established and appropriate avoidance/mitigation measures agreed. Please refer to Hydrogeological impact appraisal for dewatering abstractions, Science Report – SC040020/SR1. The scheme of monitoring information carried out as part of the planning regime will of course help inform the abstraction licence (permit to abstract) submission.

Note: A recommended hydrological monitoring condition is included in Appendix 1.

- 4.3i. Natural England: No comments received.

- 4.4 SC Ecology: No comments received.
- 4.5i. SC Regulatory Services: No objections. The applicant has provided a noise assessment (Appendix 7) and dust assessment for particulate matter for the proposed extension of the currently permitted site.
- ii. Noise: The Measured Background Noise Level for Receptor 2 ('R2') is 38dB L90 and for R4 it is 33 dB L90. In the table 4.3 Results of Baseline Noise survey and looking at appendix SK01 which shows noise monitoring locations for which LT 2 is located at R2 and LT4 is located around R4,5 and 6. Based on the results of table 4.3 can you advise where the given L90 for R2 is calculated as 38dB, and the for R4,5 and 6 it is calculated as 33dB?. It is apparent that the soil stripping phase is likely to be the most disruptive albeit the shortest of the phases to expose the mineral, causing noise levels up to 64dB at receptors R4 and R5 and it would appear that such stripping would form bunding at various heights, being 3 metres high in the western edges of the proposed extension and 5 metres high on the southern extension, so to provide noise attenuation from further activities within the site.
- iii. It is noted from table 7.11 phase 2 mineral extraction that the that the noise levels at receptor 4 are predicted would be up to 12dB above background, and receptor 2 having noise levels 11dB above background with many other receptors seeing increases of 6 or 9dB which is declared to be moderate/major in its significance of effects on the receptor. Phase 3 would also produce noise levels 10dB higher than background at Receptor 4 . In general terms, and as it is established in BS4142 (though BS4142 may not be appropriate for mineral extraction) there is a sensible principle in that an increase in 10 dB over background noise would likely be a source of complaint. For the 4 phases of the mineral extraction it would appear that dB levels would be around 7-9 dB higher than background for R4, 5 and 6. It is however noted that provided figures are well below the existing conditions 9a and 9b for the quarrying and site stripping (50dB Leaq and 70 dB leaq respectively) except perhaps for receptor 2, where noise levels are predicted to be a close 49dB for Phase 2. It is however recognised that the assessors have mentioned that the given noises are worst case scenario and the background noise levels are based on the lowest daytime ambient noise (LA90). It is noted that the hours of operation are 7am-7pm Monday to Friday and extraction would not occur on Saturdays until the depth of the quarry is established (below 87m OD), at which point the proposed bund and depth would itself attenuate noise.
- iv. In short, the noise assessment shows that there will be increased noise between 6-10 and for some properties up to 12dB for some of the identified receptors, which would practically mean that the ambient background level currently enjoyed would have audible quarry working noises of excavators trucks vehicle movements and other ancillary equipment. Such noises are not necessarily loud, but compared against a backdrop of the existing rural location, albeit with daytime dominance of the nearby A49 traffic, there is an increase which may impact on residents. The proposal timescales are front loaded for the noisier soil stripping which will create the bunds which will be there throughout the life of the phases and will help attenuate the noise. Ideally, bunding should be close to the noise source, so I would ask if they are as close as they can be on the given plans.

- v. The current conditions which are provided for the existing quarry would appear not to be exceeded by the calculated noise. It would appear that the transport by conveyor of quarried material to the existing processing area, as opposed to moving or providing a processing area into the southern extension would contribute to a quieter operation of vehicular movements and the conveyor as opposed to these and crushing and other processing operations. The limitation to Monday-Friday operation is sensible though I would recommend a limitation on hours to 1800hrs instead of 1900hrs as being appropriate for the mineral extraction phases, unless with prior agreement or evidence to support this for which a condition can be lifted, and given the higher level of disturbance from soil stripping phase, that 1700hrs be recommended for that aspect to protect residents. Please advise on proposed morning start times.
- vi. Dust: The report on particulate matter has been undertaken with regard to the Institute of Air Quality management guidance. The area is not an Air Quality Management Area and the monitoring of ambient particulate matter generation as well as monitoring from the existing operations has revealed that any increase in particulate matter is negligible (though the ambient levels seemed to have been affected by dust from local harvesting). The extension area will have no equipment which will require a permit under the Environmental Permitting (England and Wales) regulations for dust controls as the quarried material is conveyed to the existing processing site in situ. The report, however, does contain in chapter 8, very sensible control measures to minimise dust which should be adopted for the conveyor and vehicles. It is good practice to have suppression techniques and methods to control dust including and not limited to water suppression on the hoppers in the extension area which feed the conveyor and the conveyor itself and water suppression on roadways when required. I would also point out that if dust causes significant impacts this may be considered using statutory nuisance provisions and/or private nuisance action could be taken by residents if they suffered losses as a result of dust.
- 4.6i. SC Archaeology: No objections. The proposed development comprises a c. 10.9ha southern extension to Hansons existing sand and gravel quarry at Condover (total site area 44.3ha). There are currently no records on the Shropshire Historic Environment Record (HER) relating to the proposed development site itself. There are, however, a number of cropmark archaeological sites within the surrounding area including a potential rectilinear enclosure and pit alignment (HER PRN 00440) c. 200m to the west; the conjectured line of a Roman Road (HER PRN 08494) immediately to the south; a loose cluster of three ring ditches (HER PRNs 00479, 04927 and 31492) c. 500m to the east-north-east; and a further two curvilinear cropmark enclosures (HER PRNs 04928 and 00480) c. 250m and 350m to the east respectively. A geophysical survey of the proposed development has identified a series of possible linear archaeological anomalies, some of which may relate to a former field system of possible medieval date. On current evidence, it is therefore considered that the proposed development site has moderate archaeological potential.
- ii. It is advised that the Cultural Heritage Assessment by Andy Josephs Associates, and the supporting Geophysical Survey Report by Tigergeo, satisfy the requirements set out in Paragraph 189 of the NPPF and Policy MD13 of the Local Plan. Given the archaeological potential of the site as outlined above, and in relation to Paragraph 199 of the NPPF and Policy MD13 of the Local Plan, it is advised that a phased programme of archaeological work should be made a condition of any planning permission for the

proposed development. This should consist of an initial field evaluation, comprising targeted trial trenching of the linear geophysical anomalies together with a randomised sample of the quiet areas, followed by further mitigation as appropriate.

4.7i. SC Highways Development Control: No Objection subject to the development being constructed in accordance with the approved details. Conditions and informatives are recommended.

ii. The application seeks approval for a southern extension to the existing quarry and retention of existing operational facilities and site access at Norton Farm Pit, Condover and is a revision of previous planning application 17/02833MAW combined with 17/02834/VAR. The submitted Transport Statement has been reviewed and it is considered that it satisfactorily demonstrates that this quarry extension proposal will not increase the number of HGV or other trips to/from the quarry to those which have previously been experienced. However, this proposed extension will result in the existing quarry trips continuing beyond the current permission. It is therefore appropriate to examine whether there are any concerns associated with the existing/previous activity and how these could be addressed, particularly if they relate to local community safety concerns.

- At the site entrance, visibility (to the left) is well below the standard for the posted speed limit. However, it is considered given the local road conditions that the likely vehicle speeds will be generally lower than the national speed limit. Therefore, given that there have been no recorded injury accidents at this location, involving an HGV, it could be considered that the existing available visibility splay is satisfactory for the local conditions.

iii. In order to mitigate the above issue, the developer should be requested to contribute to the erection of appropriate HGV warning signs on both approaches to the site entrance, to inform approaching drivers of the potential hazard ahead (i.e. turning HGVs). These signs should also be located so that they do not adversely affect the currently available visibility splays from the site access. Furthermore, it is considered that the continuation of HGV movement, to and from this site, over the next 15 years, will adversely affect the longevity of the existing road construction between the site and the A49. Therefore, it is reasonable to request the developer to make appropriate contributions towards the repair and a maintenance of this section of local highway. In the circumstances, it is considered that the financial contributions required to ensure the delivery of the HGV warning signs and the maintenance of the highway should be secured via an appropriate S106 Agreement (TCPA), prior to planning consent being granted.

4.8 SC Drainage: No objection. The site is greater than 1.0 Ha. and a Flood Risk Assessment has been produced under the Environmental Statement Appendix 6. The potential sources of flood risk as shown in Table 14 are very low.

Public Comments

4.9 The application has been advertised by site notice and in the local press and local residents have been individually notified. Two letters have been received, one objecting and one in support. A further detailed objection letter on behalf of a local resident adjoining the site has been received from planning consultants Leith Planning.

- 4.10i. Objection Comment: We have lived in Condover for nearly 7 years and in all of our previous residences we have never experienced a property which suffers from so much dust all year round. Our view is that the considerable dust is most likely to emanate from the quarry belonging to the Applicant. We are therefore very concerned to learn of the proposed extension of the quarrying to bring the operations closer to our property which can only mean an increase in the dust within the environment around and in our house. We dread to think how much worse the problem will be for properties even closer than us to the quarry extension.
- ii. We note with interest and some skepticism the conclusions of the Dust and Air Quality Assessment carried out in December 2018 on behalf of the Applicant. Whilst we have no specialist data to support our view, our experience living locally belies the content of the Assessment. We note that the Report seems to lay the blame for any localised dust issues with crop harvesting, but harvesting takes place once a year and the dust problem is a perennial issue. Before any consent is given to this Application we would ask that if no recent review has been undertaken by the Environmental Health Department that an Air Quality Assessment be carried out to establish the current levels of dust in the local environment. We do not believe that the current levels of dust can be conducive to good health for us and our neighbours and extending the area of quarrying will exacerbate this problem.
- iii. We note from the letter dated 14 March 2019 from Landesign Planning & Landscape to your Mr. French that Mr. Briggs, the Director states that pre-application consultation has taken place with all residential property owners around the site. If that is the case then he can only be giving this a limited meaning to refer to adjoining property owners since we have not been consulted and were unaware of the Application until receiving your letter dated 21 March 2019 and indeed we understand from one of our neighbours in North Park that not only were they not consulted they did not even receive similar notification to that received by us in your letter of 21 March.
- iv. As to the extent of the proposed quarrying this undoubtedly causes considerable damage to the scenic nature of the approach to the village and is likely to have an adverse effect on the local flora and fauna. It is another case of reducing the rural landscape and affecting the rural environment in the pursuit of profit.
- v. We hope and trust that our comments will be taken into consideration in relation to this Application and we hope that you will be able to re-assure us that the Council will undertake its own Air Quality Assessment rather than relying on an Assessment commissioned by and paid for by the Applicant which cannot be regarded as independent.
- 4.11 Leith Planning objection: A 56 page objection letter has been received from Leith Planning on behalf of a local resident living adjacent to the site. The full wording is available for inspection on the Council's online planning register. The conclusions of the letter are as follows:
- i. The proposed development raises several concerns which must be considered prior to determination of the application. We remain of the opinion that the methodology used in the assessment of 'impacts' within the technical reports that make up the Environmental Assessment is flawed and is based on misconceived applications which are technically

inchoate. The conclusion that “environmental impacts such as noise and air quality are assessed separately in this ES and it is concluded that no unacceptable adverse effects would arise at nearby residential properties” is deemed to be perverse, it is based on assumptions which ignore the micro-climate and as such misrepresent the likely impacts of dust on adjacent properties.

- iii. The socio-economic case also remains overstated and misconceived; the problem stems from the simple fact that the public interest has been protected by way of allocations in the adopted plan; the applicant has confused ‘public interest’ with ‘private commercial interests’ and carried that through to evaluate the socio-economic effects. In short, a flawed assessment. We therefore ask that the application is refused, and the matters outlined in this report are addressed.

Note: The applicant has submitted further information which Leith have been notified of.

- 4.12i. Mr Stuart Jameson, Chairman of Shropshire Aero Club: I am writing in support of the application by Hanson Aggregates (19/01261/MAW) as acting Chairman and on behalf of Shropshire Aero Club Ltd sited at Sleaf Airfield near Harmer Hill, since the operation to the airfield, the future of the club and its’ members are key stakeholders in the potential outcome of this application.
 - ii. As you are probably aware, Hanson Aggregates is also the landowner of the Sleaf Airfield site and at some future point the destiny of the airfield is for it to be turned into a quarry, similar to that at Condover. The longer that Hanson Aggregates operate at their existing sites obviously means that the risk of opening an entirely new site, such as Sleaf, is significantly reduced.
 - iii. Sleaf airfield is the last remaining civil aviation authority (CAA) licensed airfield in Shropshire, operating every day (excluding Christmas Day) and there are no other options in the county. We operate a flying club of around 475 active members, and provide flying training to CAA and EASA syllabi where we have approximately 85 students in flying training at any one time. Many of these are young individuals who will go on to take up flying careers with airlines - we have already provided young pilots to EasyJet, Ryanair and Thomas Cook to name a few.
 - iv. The club operates a fleet of 9 aircraft from 2-seater trainers to 4-seat touring aircraft and an aerobatic aircraft available for training to the AOPA syllabus to British Aerobatics Association "Beginner" and Standard" categories. There are over 100 owner-operated aircraft based at Sleaf. Shropshire Light Aviation is a thriving aircraft maintenance facility and has been in operation at the airfield for many years which provides aircraft maintenance services to the region, in addition to some of the aircraft based on-site. Sleaf is in daily use for military helicopter training from RAF Shawbury during weekdays and also provides a relief landing facility. We are also a key provider of aviation fuel in the area where we have JetA1, Avgas 100LL and UL91 aviation grade fuel on-site. The airfield also provides an important local facility for professional aviation activity and refueling, for example pipeline and electricity power line inspection helicopters and we provide an air ground service to Air Ambulance services when requested.
 - v. Sleaf has a restaurant / cafe that operates every day of the week and we have many regular visitors including members of the general public who come to watch the flying

activity, especially at weekends where families bring their children to have Sunday Lunch in our WWII control tower with spectacular views not only over the airfield, but on to the Welsh hills beyond. There is a museum on the airfield open most weekends that has specialised in the recovery and preservation of wartime aviation artefacts and has many exhibits including possessions and stories of local WWII pilots who were killed in action, and includes the uniform of one famous Spitfire pilot who did survive the war and went on to build a successful and well known family business in Whitchurch. Outside the museum there is a memorial dedicated to those from the local area who served and lost their lives in defence of their country.

- vi. Sleaf is one of the few sites in the country that is capable of holding a national aerobatic event - the Golding Barrett Trophy competition annually and we also provide other activities such as the Bader Braves day where members give up their time to host disabled and disadvantaged children, giving them an experience of a lifetime - taking to the air with a member of their family! For many this will be a one and only opportunity. I could continue with many other examples of what happens at Sleaf over the course of a year, however I will get to my main point of supporting the Hanson application. As you will have realised by now there is much at stake at Sleaf should the planning application at Condover be refused since it will move our site to a higher priority for earlier extraction by Hanson Aggregates, which would seem a rather odd position to end up in when Condover is already an extraction site and an extension to that site would preserve Sleaf for a further significant period.
- vii. Shropshire Aero Club currently turns over in excess of £1m per year in fuel sales and flying training, not including the restaurant or aviation maintenance who are both valuable employers in turn and bringing in significant revenue to the community. We provide far more than a casual recreational outlet - several aircraft operating from Sleaf are owned by well-known local business operators (including some large agricultural - related names), therefore losing the site at Sleaf would have a knock-on effect far beyond Shropshire Aero Club itself and it's club members. It is with all of those factors in mind that I would encourage the council to take a very detailed look at the potential outcomes of the Condover planning application decision, beyond the immediate vicinity of the site.
- viii. I have also collected the names and addresses of almost 140 club members that can be provided on request who are in favour of this letter of support and continued extraction at Condover.

5. THE MAIN PLANNING ISSUES

- i) Development context;
- ii) The justification for the development;
- iii) Environmental effects including:
 - noise,
 - dust,
 - visual impact,
 - ecology,
 - hydrology.
 - restoration and afteruse

6. OFFICER APPRAISAL

Development Context

- 6.1 National guidance and local policies: Planning applications must be determined in accordance with the National Planning Policy Framework 2019 (NPPF) and the Development Plan unless material considerations indicate otherwise. The NPPF recognises that minerals are essential for supporting sustainable economic growth and our quality of life. As a result, it is important that there is a sufficient supply of material to provide the infrastructure, buildings, energy and goods that the country needs, whilst ensuring that permitted mineral operations do not have unacceptable adverse impacts on the natural and historic environment or human health. When determining planning applications, great weight should be given to the benefits of mineral extraction and ancillary development (NPPF 205).
- 6.2 The development plan for Shropshire comprises the Shropshire Core Strategy and the SAMDev plan and the associated mineral policies. Core Strategy policy CS20 confirms that the site is located within a Mineral Safeguarding Area where there is a presumption that mineral resources will be protected from sterilisation. The site is also located within a 'broad location' for the future working of sand and gravel identified by the policy which commits amongst other matters to maintaining an adequate supply of sand and gravel in line with the NPPF. It also advises that 'priority will be given to environmentally acceptable proposals which can deliver targeted environmental or community benefits consistent with Policies CS8 (Facilities, services and infrastructure provision) and CS17 (Environmental Networks)'.
- 6.3 SAMDev policy MD5 relates to the provision of sand and gravel and is worded as follows:

MD5: Sites for Sand and Gravel Working

1. *The supply of sand and gravel during the Plan period should be provided in the first instance from existing permitted sites and then from the development of mineral working at the site identified on the Proposals Map and allocated in Schedule MD5a below;*
2. *Where monitoring demonstrates that the further controlled release of sand and gravel reserves is required, then the subsequent development of mineral working will be considered at the sites identified in Schedule MD5b below. Applications for earlier development of these sites will be considered on their merits. In considering any such application, particular regard will be paid to:*
 - i. *the need for minerals development to maintain an adequate and steady supply of sand and gravel consistent with the established production guideline;*
 - ii. *the need to control potential cumulative impacts associated with concurrent or sequential mineral extraction operations in a specific area, including through the imposition of output or timescale restrictions where these are necessary to reduce the potential for market oversupply and cumulative adverse environmental impacts;*
 - iii. *whether the early release of the site would enhance sustainability through meeting an identified local need.*

3. *Proposals for mineral working falling outside the allocated areas will be permitted where developers can demonstrate that:*
- i. the proposal would meet an unmet need or would prevent the sterilisation of the resource; and,*
 - ii. the proposal would not prejudice the development of the allocated sites; or,*
 - iii. significant environmental benefits would be obtained as a result of the exchange or surrender of existing permissions or the site might be significantly more acceptable overall than the allocated sites, and would offer significant environmental benefits.*

6.4 Mineral allocations: Policy MD5 sets out the expected situation with respect to release of the allocated sand and gravel sites. The Wood Lane North extension is approved and operational. Applications relating to the allocations at Gonsal and Morville have not yet been submitted. An application for a different extension at Gonsal has recently been submitted due to difficulties in obtaining access to the allocated site. The policy supports new unallocated sites in line with the general support for mineral working in the NPPF, provided the tests listed in the policy are met (either MD5 3i & ii or MD5 3i & iii).

6.5 The current SAMDev policies were adopted nearly 5 years ago and are therefore in need of review in line with the requirements of the NPPF. However, mineral policy remains technically ‘up to date’ as Shropshire can comfortably demonstrate a sand and gravel landbank in excess of 7 years. The current plan review excludes new mineral allocations so mineral policy has not been ‘rolled forward’ in the way anticipated when the plan was adopted. This will inevitably lead to an increasing reliance on windfall policy MD5(3) at a time when economic considerations are suggesting significant changes to the local and regional pattern of aggregate market.

6.6 Condover Quarry is not allocated in the current SAMDev plan but is recognised as an existing quarry with a proven resource and an established market. The current proposals would not increase the level of supply from the quarry but would allow the company to continue to supply its existing markets at current rates for a further 12 years. Borehole records indicate that the proposed extension would recover the last significant mineral reserves at the site. Decades of working at Condover have established a high degree of confidence regarding the track record and the environmental context of the quarrying operations. If the SAMDev mineral allocations had been rolled forward then it is likely that the proposed extension would have scored highly as a proposed allocation given also the general preference for extensions rather than green field sites.

The three tests set out in Policy MD5 3(iii) are considered below:

6.7 The first test: MD5.(3.i) - The proposal would meet an unmet need or would prevent the sterilisation of the resource.
Preventing sterilisation: If the current proposals did not proceed then the mineral would remain in the ground and may potentially be available for future working. However, existing permitted mineral at Condover would be exhausted within a year and Hanson would therefore need to prepare immediately for production to commence at their Sleep Airfield site.

- 6.8 Production of aggregate at Conover is dependent on the existing extensive quarrying infrastructure. Restoration conditions on the existing quarry permission require removal of this infrastructure within 2 years of the cessation of mineral working. Recovery of mineral in the extension area at a future date would not be possible unless quarrying infrastructure was subsequently re-introduced. This would entail significant cost and would also be expected to impact adversely on large areas of the future restored quarry site where significant habitat gains are anticipated. It is doubtful therefore that recovery of the limited volume of mineral in the extension area would be either economically viable or environmentally acceptable after the existing quarrying operations have ceased. Hence, there is a finite window of opportunity to recover the mineral in the extension area after which the mineral may effectively be sterilised in conflict with the requirements of Policy MD5.(3.i). Policy MD5(3.i) requires either that sterilisation is prevented or that the proposal would meet an unmet need. As the proposed extension would effectively prevent sterilisation of the last significant resource at Conover the requirement of policy MD5(3)i is met.
- 6.9 Meeting an unmet need: Policy MD5(3)i requires that if the proposal does not prevent sterilisation then it should meet an unmet need for mineral. As the current proposals would prevent sterilisation the requirement of this policy is satisfied. It is however appropriate to consider whether the proposal would also meeting an unmet need, either in terms of the volume of mineral or its particular characteristics.
- 6.10 The countywide picture of demand for sand and gravel is determined through Local Aggregate Assessments ('LAA's) which the NPPF requires Mineral Planning Authorities such as Shropshire to produce annually. This information should then be used to predict future demand on the basis of 10 year and 3 year rolling averages. The current health emergency has affected figures for recent mineral production and the most up to date LAA in Shropshire is for the year 2016-17. This indicates that, at 0.74mt per year, sand and gravel production in Shropshire was continuing to recover from lower levels during the economic recession and was above both the 10 year rolling average for sand gravel sales (0.69mt) and the 3 year average (0.70mt). The reserves in the landbank (11.69 million tonnes in 2016-17) equated at the time to 16.94 years which is significantly above the minimum 7 year requirement set out by the NPPF. Additional reserves have been approved since this time at Woodcote Wood (2.55 million tonnes - in production from March 2019) and at Shipley Quarry (3.5mt – expected to be operational from autumn 2020).
- 6.11 On the face of it there is a healthy reserve of sand and gravel in Shropshire (of the order of 16.5mt or 14+ years allowing for production from 2018) suggesting that this policy test is not met. However, the NPPF advises that an adequate or excess landbank is not a reason for withholding planning permission and it is also necessary to look at the detailed picture of aggregate supply in Shropshire. The 2016-17 LAA advises that 'despite having a large landbank, there are potential issues regarding productive capacity due to about 70% of reserves being contained within three sites which have been unworked for over 5 years'. The 2016-17 LAA advises that 'The release of further resources is expected through windfall applications or the Local Plan Review'. As the current local plan review has excluded mineral allocations new quarrying proposals must increasingly be considered under the windfall policy MD5(3).

- 6.12 Local Aggregate Assessments indicate that prior to the current health emergency the level of demand for sand and gravel in the West Midlands conurbation was high and increasing. A number of major developments are planned within the region including amongst others HS2, the extension to the i54 business area and the Wolverhampton western orbital road. This growth agenda is mirrored locally by high levels of development indicated in the Telford Local Plan. At the same time Staffordshire which is by far the leading sand and gravel producing area in the region, is reducing production (from @6.5m tonnes to 5mt per year) and there are no longer any producing quarries in Staffordshire west of Wolverhampton. This has led to increasing demand for sand and gravel production in eastern Shropshire. In view of this it is reasonable to assume that Shropshire will continue to experience increased demand for sand and gravel relative to historic norms as businesses begin to recover from the current health emergency.
- 6.13 Condover Quarry supplies an established local market for sand and gravel, including a significant 'internal market' which forms part of the company's wider bulk material supply business. Sand and gravel is mixed with other Hanson bulk materials to produce value added products such as roadstone, concrete and bagged products for the DIY market. If the proposed extension was not to proceed sand and gravel could in theory be purchased from competitors. However, this is unlikely to be economic and would also deflect mineral from other operators in Shropshire, thereby indirectly affecting existing markets. The company would need to commence production urgently at its dormant site at Sleaf airfield in order to secure a continued supply of sand and gravel at a competitive price.
- 6.14 In conclusion, it cannot be said that the proposals would meet an unmet need as this need could be met equally in theory from Sleaf or from other operators who produce similar mineral. There are however a number of extenuating circumstances in support of the proposals including in particular the ability to effectively prevent sterilisation of the last significant mineral resource at Condover and to significantly delay the time when the company needs to enter its site at Sleaf airfield which has a well-established aviation use (see succeeding section).
- 6.15 The second test - MD5(3.ii) - The proposal would not prejudice the development of the allocated sites:
The allocated sites in the SAMDev plan are Wood Lane, Gonsal and Morville extension. The Wood Lane allocation was permitted in 2016 and is in production so cannot be directly affected by the current proposals. The Gonsal north extension at Condover near Shrewsbury has not yet come forward and a different application for a southerly extension to Gonsal has recently been submitted instead due to access difficulties with the allocated site. Gonsal does not supply Hanson's internal market and the 2 quarries have co-existed successfully in relative proximity for decades. There is no reason to suspect that this would not continue to be the case if an extension is approved at Gonsal. The Morville extension west of Bridgnorth would serve a different market divided between the West Midlands and Telford, as is the case with the existing nearby quarry at Bridgwalton. It is not considered that there would be any obvious conflict between the proposed site and the 2 remaining undeveloped SAMDev allocations. The requirement of policy MD5(ii) is therefore met. As both MD5(3i) and MD5(3ii) are met the requirements of the policy overall are satisfied. However, it remains appropriate to assess compliance with policy MD5(3iii) which also links to a number of other adopted policies.

- 6.15 The third test – MD5(3.iii) - significant environmental benefits would be obtained as a result of the exchange or surrender of existing permissions or the site might be significantly more acceptable overall than the allocated sites, and would offer significant environmental benefits.
MD5(iiiia) – Exchange or surrender: The proposals do not involve any exchange or surrender of existing mineral sites or permissions so this policy test is not met.
- 6.17 MD5(iiiib) Significantly more acceptable overall than the allocated sites, and would offer significant environmental benefits: The application is accompanied by an Environmental Statement which concludes that there are no unacceptably adverse environmental effects once mitigation has been applied. This conclusion has generally been accepted by planning consultees, none of whom have objected. The proposals also offer significant benefits through the biodiversity gains which would be generated by the restoration proposals, and through delivery of a proposed long-distance footpath link between Conover and Bayston Hill. These benefits are acknowledged and compare favourably with the benefits offered through restoration of the allocated sites and other mineral schemes in Shropshire. Some of these benefits are already secured through restoration conditions linked to the existing planning permission. However, the applicant is proposing that the footpath link is formalised as a right of way and is established at least in part on previously restored quarry land at an early stage in the proposed quarrying operation.
- 6.18 Conover Parish Council has supported the footpath proposals and it is considered that this supports the requirement under Policy MD5(3iii) for a windfall proposal to offer significant environmental benefits. It could be argued that these benefits render the proposals significantly more acceptable overall than the allocated sites in accordance with Policy MD5(3ii). The environmental issues raised by the proposals are considered further in succeeding sections.
- 6.19 Conclusion on compliance with Policy MD5(3) The proposals would effectively prevent sterilisation of the last significant mineral resource at Conover. The requirement of Policy MD5(3i) is therefore met. They would also not prevent the allocated sites from coming forward so the requirement of policy MD5(3ii) is also met. As such, the proposals are compliant overall with policy MD5(3) without the need to demonstrate compliance with the other policy tests set out in MD5(3).
- 6.20 The proposals would not meet an unmet need under policy MD(3i) though there are significant extenuating circumstances which support the need for continued supply of mineral from Conover. They do not offer any exchange and surrender deals under MD5(3iii). However, they do offer significant environmental benefits and could be said to be significantly more acceptable overall than the allocated sites. This is evidenced by the absence of objection from statutory consultees and Conover Parish Council and the generally low volume of public opposition which contrasts with other recent quarrying schemes in Shropshire. The concerns raised in the 2 objection letters received are considered further in succeeding sections.

HIGHWAYS AND TRAFFIC

- 6.21 The NPPF advises that ‘Development should only be prevented or refused on transport grounds where the residual cumulative impacts of development are severe’. The

proposed development does not seek to intensify output from the Site but will extend the life of the site for a further 14 -15 years at an output of between 150,000 and 200,000 tonnes per year. Access to the quarry is obtained via a junction on Condover Road with all quarry HGV's routed north towards the A49. The junction provides sufficient space and visibility and a capacity assessment shows that it will continue to operate with ample spare capacity.

- 6.22 An accident survey finds that there have been no personal injury accidents involving HGV's in the vicinity of the quarry over the last 5 years and therefore concludes that there are no inherent accident problems associated with the local highway network which would prevent continued operations at Condover Quarry. A traffic survey indicates that the quarry typically generates an average of 30 HGV departures per day, while the maximum output when the quarry operates at full capacity does not exceed 44 loads a day. A similar level of HGV arrivals occurs at the Site. Quarry employees generate a total of 12 trips per day (arrivals and departures) and this would remain the same for the proposed extension. The survey concludes that the proposed development will have a minimal impact on the local highway network and will not result in any road safety issues.
- 6.23 The Council's highway advisor has not objected to the proposals subject to recommended conditions and informative notes but has indicated that an appropriate contribution towards highway maintenance on the access route to the A49 should be obtained by a legal agreement. This is in recognition that the proposals would prolong the level of HGV movements on the local highway for a further 14-15 years. The applicant has agreed and subject to this it is considered that the proposals comply with relevant policies and guidance on highways and road safety (MD17.i).

NOISE:

- 6.24 The Minerals practice guidance accompanying the NPPF (published 17 October 2014) includes guidance on noise. Applicants should consider the main characteristics of the production process and its environs including measuring background noise levels, assessing the likely future noise impact of the development and setting out monitoring and mitigation provisions. The conditioned noise limit for mineral working at the nearest noise-sensitive properties should not normally exceed the background noise level by more than 10dB(A) during normal working hours (0700-1900) or should be as near to this level as possible where not achievable. In any event levels for normal operations should not exceed 55dB(A) LAeq, 1h (free field)'.
- 6.25 The guidance also makes provision for increased temporary daytime noise limits of up to 70dB(A) LAeq 1h (free field) for periods of up to 8 weeks in a year for essential site preparation and restoration works such as construction of screen mounds where this will bring longer-term environmental benefits.
- 6.26 The design of the scheme includes inbuilt noise mitigation. Screen mounds have been located on the southern and western boundaries between the excavations and the nearest dwellings. A 3m high hay bale noise screen is also proposed on the northern boundary for the benefit of properties at Norton Farm. Working faces would be aligned to form a noise barrier reflecting any extraction noise away from the dwellings. Stand offs have also been increased.

- 6.27 A noise assessment identifies nine sensitive residential receptors along Conover Road and Allfield Lane (see Fig 1). Whilst the quarry activities would sometimes be audible at these properties the assessment finds that existing levels around the proposed extension are dominated by road traffic noise from the A49 and Station Road. It indicates that for normal mineral extraction operations predicted worst-case noise levels will be below the limit of 50dB LAeq,1h set out in the current planning permission. For noisier temporary activities such as soil stripping predicted levels will also be below the 70dB(A) LAeq,1h limit stipulated in national minerals planning guidance, with maximum worst case predicted noise level of 64 db LAeq t at Allfield Cottages when soil stripping and placement works are occurring. Actual noise levels are expected to be significantly below the worst-case predicted levels for most of the proposed extension.
- 6.28 The noise assessment identifies two worst case instances early in phase 2 when normal mineral working may slightly exceed a level of 10db above the background level whilst remaining within the currently conditioned noise limit of 50db LAeq 1hr. This situation only arises on a Saturday morning when other background noise levels are reduced. The applicant therefore proposes that no Saturday working takes place in the affected area until the quarry floor is below 87m AOD when noise will be adequately attenuated by the quarry faces. A condition covering this has been recommended in appendix 1.
- 6.29 The noise report concludes that whilst noise levels will increase at sensitive receptors for a temporary period, the proposed activities are predicted to be within the required limits of acceptability at all times and are not expected to result in a significant adverse impact, or to give rise to significant noise intrusion. The applicant's noise consultant has provided some further clarifications on the noise report in response to a query from Regulatory Services who have not objected following this clarification.
- 6.30 Planning consultants acting for an occupant of Allfield Cottages express concerns that the noise assessment fails to take the local microclimate into account. Whilst there have been no previous noise complaints relating to operations at Conover Quarry it is recognised that the proposed extension is closer to residential property. The current scheme has been designed taking into account similar concerns raised in relation to a previous 2017 application which was subsequently withdrawn. Increased stand-offs have been provided to residential property and intervening screen bunding now includes a strategic area of 'sacrificial' planting near to Allfield Cottages.
- 6.31 Background noise levels have been measured at the nearest sensitive properties and the methodology for predicting noise levels is accordance with relevant Government guidance. Regulatory Services have not objected subject to a noise condition setting out relevant noise limits. Any planning permission would also include a requirement for the applicant to monitor noise compliance. Whilst the noise assessment predicts that temporary operations would also fall well within Government noise limits it is considered that an additional working hours restriction should also apply for such operations given the proximity of some residential property.
- 6.34 Additionally, it is recommended that any planning permission should include a condition requiring formal investigation of any noise (and dust) related complaints with implementation of mitigation measures where any complaint is validated by the planning

authority in consultation with Regulatory Services. Subject to this it is considered that the proposals can be accepted in relation to development plan policies covering noise.

DUST / AIR QUALITY

- 6.35 A dust and air quality report establishes baseline air quality around the proposed extension area, identifies dust sources and undertakes dust dispersion modelling for the plant site and the proposed extension. The scheme has been designed with measures to minimise dust including use of a field conveyor to transport mineral to the plant site, thereby avoiding the need for HGV haulage. The report states that the prevailing wind from the south west and local rain frequencies will ensure that the potential dust impact at all receptors is 'Negligible' to 'Slight' before any mitigation takes place.
- 6.36 Predicted worst case PM10 concentrations are higher than the recorded concentrations at two monitoring locations. Predicted PM10 and PM2.5 concentrations from the Site will have a negligible to slight effect on existing receptors. The assessment concludes that the sensitivity of surrounding receptors to potential respirable particulates from the proposed extension is 'Minor' to 'Negligible' before any mitigation takes place.
- 6.37 The assessment also concludes that the significance of potential air quality effects on ecological receptors including Bomere Pool SSSI is negligible. It should be noted that whilst the proposed extension is 800m to the south west of Bomere Pool SSSI at its nearest, the existing quarry operations are located to the immediate south-west of the SSSI. These existing activities have not previously attracted objection from ecological consultees and no adverse air quality effects have been observed at the SSSI. Site inspection has indicated no sign of visible dust on planting in the existing quarry shelter belt adjoining the SSSI.
- 6.38 There have been no complaints relating to dust from existing quarry workings where best practice dust control measures are employed including use of a field conveyor and application of water to damp down surfaces where necessary. The existing permission includes detailed dust control conditions. These would be strengthened further if permission is granted, in recognition of the greater proximity of residential property. In particular, requirements for dust monitoring on site boundaries nearest to residential property would be introduced and also formal procedure for investigating any validated complaints. Regulatory Services have not objected and subject to these measures it is concluded that the proposals can be accepted in relation to policies covering dust impact.

HIGHWAYS AND TRAFFIC

- 6.39 The proposed development does not seek to intensify output from the Site but will extend the life of the site for a further 14 -15 years based on an expected output of between 150,000 and 200,000 tonnes per year. Access will continue to be obtained via the existing junction onto the Condoover Road which provides sufficient turning radii for HGV traffic travelling to and from the north and suitable junction visibility. An accident survey finds that no personal injury accidents occurred in the vicinity of Condoover Quarry in the past 5 years which involved HGVs.

- 6.40 A traffic survey indicates that the quarry typically generates an average of 30 HGV return movements per day and maximum output does not exceed 44 return movements. Employees generate a further 6 return movements per day and this would remain the same for the proposed extension to the quarry. The assessment concludes that the proposed development will have a minimal impact on the local highway network and will not result in any road safety issues. This conclusion can be supported on the basis that levels of traffic would remain the same as for the existing quarry and these levels have not resulted in any identified highway impacts.
- 6.41 The Council's highway advisor WSP has not objected subject to conditions and advisory notes on highway matters. WSP has however noted that the proposals would extend the duration of existing HGV use of the access route to the quarry from the A49 by another 14-15 years and that this in turn will lead to further wear and tear on the public highway. In recognition of this the applicant has agreed to make a financial contribution towards future highway maintenance and this would be secured by means of a legal agreement under the Planning Act. An appropriate sum has been agreed with the applicant. Subject to this it is considered that the proposal are compliant with relevant policies and guidance covering highway matters.

LANDSCAPE AND VISUAL IMPACT

- 6.42 The main visual implications of the proposed extension arise from 1) closer views towards the site from the dwellings to the south and west; 2) views from Station Road to the south / south west and 3) longer distance views from elevated land at Lyth Hill Country Park 2.1km to the west. A landscape and visual impact assessment sets out the following measures which will be undertaken to mitigate the visual effects of the proposed development:
- A 3m screening mound on the western boundary hides the existing hill crest which will screen Condover Road, Norton Cottage and Kings Furlong.
 - A 5m bund along Allfield Lane to the south that will hides the existing hill crest from Allfield Lane.
 - Early tree and hedge planting at the start of Phase 1 - on the southern limit of Phases 1 and 2;
 - Early tree and hedge planting at the start of Phase 1 on the northern limit of Phase 3; and
 - Early tree and hedge planting at the start of Phase 1 in the south west field corner opposite Norton Lodge to screen views from Norton Lodge and reduce visual impacts on longer views from Station Road.
 - A phased working scheme that uses the ridge in the proposed extension area to screen Phases 1 and 2. Phases 1 and 2 will be largely hidden to views from the west using the hill crest as a screen;
 - Early restoration of Phases 1 and 2 perimeter faces is proposed so that as Phase 3 is worked, it will reveal restored back faces rather than open quarry working faces.
 - Phase 3 is the most prominent phase when viewed from the west and will be worked in three sub-phases to restrict the amount of open working visible at any one time.
 - Phase 4 is a single phase set at a level that cannot be easily viewed from outside the site boundary.

The assessment concludes that these mitigation measures will ensure that any visual impact is controlled to an acceptable level.

- 6.43 Screen bunds can be perceived as unnatural features. However, the larger 12-16m high screen bunds formed along the western edge of the existing quarry have assimilated well into the landscape and are not perceived as unnatural, having been constructed sensitively with rounded profiles. The visual appraisal confirms that smaller 3-5m screen bunds would suffice to screen the proposed extension, with use being made of the ridge in the middle of the extension to provide additional screening. Close attention will need to be paid to the form of the proposed screen bunds given that they will be close to and visible from residential property. The proposal to undertake sacrificial planting to further soften the appearance of the bund nearest to Allfield Cottages is to be welcomed.
- 6.44 There would be some partial views towards the proposed quarry from Lyth Hill during part of phase 2 and all of Phase 3. However, dividing phase 3 into 3 segments, will reduce the area of exposed ground and working area which can be viewed from Lyth Hill at any one time. These temporary views would be at a distance of more than 2.1km and would form a small and peripheral part of a wide panorama as seen from the Country Park. Mitigation will include early landscape planting and rapid greening over of the rear slope of Phase 1. The visual appraisal assesses the magnitude of impact overall as slight - slight/moderate with minor - intermediate significance.
- 6.45 The officer has visited the site and surrounding public viewpoints and supports the applicant's conclusion that any visual effects would be minor having regard to the design of the proposals and the available mitigation measures. Any residual effects are significantly outweighed by the benefits of mineral working as set out in the NPPF.

ECOLOGY

- 6.46 The Site is a mix of active quarry and land in active arable use. The proposed extension area is primarily contained within a single 22ha field under regular arable cropping. As such there is little suitable habitat for protected species. An ecological survey finds that there are several properties with bat roost potential adjacent to the proposed extension. Great crested newts are present in the vicinity of the existing quarry, having been translocated from the quarry in 2011. Two juvenile great crested newts were found in the quarry excavation during the walkover survey in June 2016 but the Southern extension is not thought to contain them given the intensive arable use. The hedgerows and woodland bordering the proposed extension have potential for nesting and foraging birds but would be untouched by the development..
- 6.47 There are three statutory protected sites within 2 km of the proposed extension. These are The Midland Meres and Mosses Phase 1 Ramsar site and Bomere, Shomere and Betton Pools Site of Special Scientific Interest (SSSI) and Rea Brook Valley Local Nature Reserve (LNR). The Ramsar and SSSI are located adjacent to the current quarry in the north east and the Local Nature Reserve around 1.9 km to the north. The Cound Brook Local Wildlife Site (LWS) lies approximately 600m to the south east. Working of the proposed extension has limited potential for any significant effects on the identified receptors.

- 6.48 The statutory sites would not be affected directly and the hydrological appendix in the Environmental Statement shows that there is no potential for indirect effects from de-watering. Hydrological information obtained by the company over many years confirms that the water bodies in the Bomere and Shomere Pool RAMSAR site are sealed at the base, fed by surface water and have no direct connection to the regional groundwater table which is at a much lower level. The mineral in the extension is the southern continuation of the linear deposit of a glacial river system which has been worked at the existing quarry and forms part of the same hydrogeological system which has been found not to impact on the RAMSAR site. Hence, working of the extension area 800m from the nearest part of the RAMSAR site would also not be expected to affect the existing hydrological regime at this designated site. The discharge from de-watering to the Cound Brook LWS is via an approved discharge that requires all water to be settled before being discharged. The applicant's air quality assessment also indicates that there would not be any air quality impacts on designated sites including the RAMAER site which adjoins the current quarry workings.
- 6.49 There is no potential for direct or indirect effects on roosting/foraging and commuting bats. However, restoration has the potential to provide enhanced foraging and commuting habitats for any bats that may be roosting in the local area. There is negligible risk that great crested newts present in the current quarry could use the boundaries of the proposed extension as part of their terrestrial habitat. The proposed extension is located more than 350 m from nearest recorded location of great crested newts. Policy L3 adopted by Natural England provides for situations where great crested newts colonise into areas such as working quarries with lagoons for breeding and large areas of suitable terrestrial habitat. Provided that on restoration aquatic and terrestrial habitat for great crested newts is provided for in the long-term, it is accepted that extensive clearance does not have to be undertaken. The restoration proposals would involve the provision of extensive areas of suitable aquatic and terrestrial habitat.
- 6.50 There is limited potential for an effect on nesting birds as the boundary habitats would remain undisturbed and soil stripping and restoration would be undertaken mainly between end August - end February i.e. outside of the nesting bird season. If soil movement is necessary during the nesting season a prior nesting survey would occur before any work starts.
- 6.51 Natural England and the Council's ecology section have not responded to the planning consultation which took place in March / April 2019. The officer has subsequently prompted the latter for a response but this has not been received. The proposals have therefore been assessed on the basis of standing advice published by these consultees. Given the findings of the applicant's ecological report as listed above it is concluded that the proposals would not be likely to impact on designated sites either directly or indirectly through air quality or hydrology. Nor it is considered that there would be any impacts on protected species or habitats given the current intensive arable use of the extension area and the fact that peripheral vegetation would not be affected.
- 6.52 Restoration affords the potential for an increase in biodiversity through the creation of a range of habitats not currently found in the proposed extension area. This is in accordance with the requirement for a nett gain in biodiversity which is set out in the NPPF. It is concluded that the proposals accord with relevant policies and guidance on ecology.

WATER ENVIRONMENT

- 6.53 An assessment of the Proposed Development on the water environment at the Site and the surrounding area has been undertaken. A Hydrogeological Conceptual Model has been produced in accordance with Environment Agency advice and identifies the potential sources of groundwater recharge, groundwater pathways and potential sensitive receptors. This has been used to undertake a Hydrological Impact Assessment which concludes that with the implementation of mitigation measures, the effects of the Proposed Development on water environment of the Site and the surrounding area will not exceed minor and therefore will not be significant. Further support for this conclusion comes from the knowledge of the hydrological regime of the existing quarry where mineral extraction and associated hydrological evaluation has been ongoing since 1961.
- 6.54 The Environment Agency has requested some additional information on the hydrological context of the site which the applicant has provided. The Agency has subsequently accepted that sufficient information has been submitted for the purposes of the current application and has withdrawn a previous holding objection subject to imposition of a hydrological monitoring condition. The proposals cannot proceed below groundwater level until Phase 4 (year 9) at which time the applicant will need to for a groundwater abstraction license. Working below the current groundwater level is allowed under the existing planning permission and there is already associated discharge consent licence to allow water to be sent to the Cound Brook. The Agency has agreed that any further information which may be necessary on groundwater can be provided when the applicant applies for an abstraction licence for the southern extension area, in circa 7 years' time. Water abstraction is not permitted until the Agency has issued an abstraction licence.
- 6.55 A flood risk assessment concludes that the proposals have a very low risk of surface water flooding. No flooding has been encountered as a result of the existing quarrying operations. It is concluded that the proposals can comply with policies and guidance covering the water environment subject to the recommended conditions.

ARCHAEOLOGY

- 6.56 An archaeological assessment concludes that there is a low risk of encountering archaeological remains within the site. It is proposed to undertake archaeological monitoring prior to development of each quarry phase. In the event that archaeological remains are identified during these works, an appropriate level of archaeological investigation and recording will occur. The Council's archaeology section has not objected subject to the imposition of an archaeological monitoring condition.

SOILS

- 6.57 The NPPF requires protection of best and most versatile (BMV) agricultural land and indicates that land of poorer quality should be considered first. However, the NPPF also advises that 'great weight' should be given to the benefits of mineral extraction and recognises that minerals can only be worked where they are found. The NPPF requirement to deliver net ecological gain also must be weighed in the planning balance when considering effects of mineral working on BMV land.

- 6.58 Soils in the existing quarry have been placed in long-term storage and saved for use in areas designated for agricultural restoration under current operational consent. A soil assessment for the proposed 22 ha extension finds that 75% of the area(16.20 ha) is of best and most versatile quality of which 11.55ha of this is high quality grade 2 land with the remaining 4.56ha being subgrade 3a. The remaining 4.52 ha of agricultural land within the proposed extension falls within subgrade 3b and is of moderate quality. The re-use of BMV soils within the proposed extension area will enable up to 10.9 ha to be restored or improved to BMV status in the longer term, resulting in a net loss of 5.30 ha of BMV land. This is dependent on a high quality of restoration and aftercare being maintained in the restored agricultural areas. Detailed conditions have been recommended in Appendix 1 to facilitate this.
- 6.59 The protection afforded to BMV land by the NPPF is acknowledged, as is the great weight which should be attributed to national policy and the requirements for net biodiversity gain. A succeeding section indicates that if the current proposals do not proceed at this stage there is a risk that the mineral in the site may be effectively sterilized as the applicant would need to restore Condover Quarry and move production to a different site. Additionally, the restoration proposals will result in significant ecological benefits through provision of species rich grassland, woodland and wetland within the restored site which would form part of a wider habitat area delivered when the existing quarry workings are restored.
- 6.60 There would be an added benefit to the local community through delivery of a footpath linking the villages of Condover and Bayston Hill and affording scenic views of the restored quarry site including woodland and lakes centered along a 1.5km valley. When taking the benefits of the proposals into account it is considered on balance that these demonstrably outweigh the loss of 5.3ha of best and most versatile agricultural land.

SLEAP AIRFIELD

- 6.61 If the current proposal does not proceed then the company will need to transfer production to an alternative site. Hanson has 2 dormant sites in Shropshire at Cound and Sleaf Airfield. It is likely that production would transfer to Sleaf as the reserve is much larger than at Cound and Cound is a predominantly sand rich deposit compared to Sleaf, It is therefore more likely to justify the significant investment in setting up a new producing sand and gravel site at Sleaf. However, Sleaf has a well-established aerodrome which is the only such use in Shropshire and provides valuable flying experience and significant investment in the local economy. The chairman of Sleaf Aeroclub has written in support of the current proposals which would secure the future of the aerodrome for a further 14 years. This is a material consideration which weighs in favour of the current proposals.

CUMULATIVE AND IN COMBINATION EFFECTS

- 6.62 It is considered that the individual effects identified by the Environmental Statement can be effectively mitigated and conditioned to avoid any cumulative effects. There will be times when temporary works may lead to a coincidence of noise and visual or other effects. However, the Environmental Statement reports support the conclusion that the level of any such effects would remain well within relevant guidance. There are no other

developments in the vicinity of the proposed extension which would lead to any significant cumulative effects.

6.62 The concerns raised by a planning consultant and a local resident in relation to amenity are acknowledged and comprehensive planning conditions have been recommended to protect residential amenity. It is concluded that the proposals can be accepted in relation to cumulative and in-combination impacts subject to the recommended conditions.

7. CONCLUSION

7.1 The site is not allocated in the SAMDev Plan but extensions to existing quarries are generally regarded as preferable to new sites and Condover Quarry has a good track record and a well-known environmental context. It is considered that the proposals clearly meet the criteria for a windfall site which are set out in SAMDev Policy MD5(3).

7.2 Whilst sand and gravel reserves in Shropshire currently exceed the minimum 7 year landbank requirement the NPPF states that this should be regarded as a minimum and that exceeding 7 years is not a reason for refusal. In the case of Shropshire a significant proportion of the landbank is tied up in 3 dormant sites with historical permissions which skew figures regarding the amount of sand and gravel available. There is a high degree of certainty that the reserves at Condover would be worked and it is considered that this would avoid the effective sterilisation of the reserve which may occur if the proposals were not to proceed at this stage.

7.3 The level of public objection is low relative to other recent mineral schemes in Shropshire with two objections having been received by / on behalf of local residents. These concerns are fully acknowledged and are addressed in this report. The design of the proposals has also been amended following representations received on an earlier 2017 application which has since been withdrawn. There are no outstanding objections from statutory consultees responding to the planning consultation. Comprehensive planning conditions have been recommended including additional amenity protection controls which are not included in the current operational planning consent.

7.4 The individual effects of the proposals and the potential for cumulative effects has been assessed. It is considered that no issues have been identified which would be likely to give rise to unacceptable impacts on the local environment or amenities after mitigation. This is having regard to the inbuilt safeguards in the design of the scheme and the recommended planning conditions. It is concluded that proposals can be accepted in relation to relevant development plan policies and guidance and other material planning considerations.

8. RISK ASSESSMENT AND OPPORTUNITIES APPRAISAL

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 - written representations, a hearing or inquiry.

- The decision is challenged by way of a Judicial Review by a third party. The courts become involved when there is a misinterpretation or misapplication of policy or some breach of the rules of procedure or the principles of natural justice. However their role is to review the way the authorities reach decisions, rather than to make a decision on the planning issues themselves, although they will interfere where the decision is so unreasonable as to be irrational or perverse. Therefore they are concerned with the legality of the decision, not its planning merits. A challenge by way of Judicial Review must be made a) promptly and b) in any event not later than three months after the grounds to make the claim first arose.

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

Human Rights

Article 8 give 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 recommendation below.

Equalities

The concern of planning law is to regulate the use of land in the interests of the public at large, rather than those of any particular group. Equality will be one of a number of 'relevant considerations' that need to be weighed in planning committee members' minds under section 70(2) of the Town and Country Planning Act 1970.

9. FINANCIAL IMPLICATIONS

There are likely financial implications of 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 dependant on the scale and nature of the proposal. The financial implications of any decision are not a material planning consideration and should not be "weighed" in planning committee members' mind when reaching a decision.

Additional Information

View details online: <https://pa.shropshire.gov.uk/online-applications/applicationDetails.do?activeTab=documents&keyVal=POKEHETD06Z00>

10. PLANNING POLICY

10.1 Central Government Guidance: National Planning Policy Framework 2019

203. Minerals are essential to support sustainable economic growth and our quality of life. It is therefore important that there is a sufficient supply of material to provide the infrastructure, buildings, energy and goods that the country needs. However, since minerals are a finite natural resource, and can only be worked where they are found, it

is important to make best use of them to secure their long-term conservation.

205. When determining planning applications, local planning authorities should:

- give great weight to the benefits of the mineral extraction, including to the economy;
- as far as is practical, provide for the maintenance of landbanks of non-energy minerals from outside National Parks, the Broads, Areas of Outstanding Natural Beauty and World Heritage sites, Scheduled Monuments and Conservation Areas;
- ensure, in granting planning permission for mineral development, that there are no unacceptable adverse impacts on the natural and historic environment, human health or aviation safety, and take into account the cumulative effect of multiple impacts from individual sites and/or from a number of sites in a locality;
- ensure that any unavoidable noise, dust and particle emissions and any blasting vibrations are controlled, mitigated or removed at source,³¹ and establish appropriate noise limits for extraction in proximity to noise sensitive properties;
- not grant planning permission for peat extraction from new or extended sites;
- provide for restoration and aftercare at the earliest opportunity to be carried out to high environmental standards, through the application of appropriate conditions, where necessary. Bonds or other financial guarantees to underpin planning conditions should only be sought in exceptional circumstances;
- not normally permit other development proposals in mineral safeguarding areas where they might constrain potential future use for these purposes;
- consider how to meet any demand for small-scale extraction of building stone at, or close to, relic quarries needed for the repair of heritage assets, taking account of the need to protect designated sites; and
- recognise the small-scale nature and impact of building and roofing stone quarries, and the need for a flexible approach to the potentially long duration of planning permissions reflecting the intermittent or low rate of working at many sites.

207. Minerals planning authorities should plan for a steady and adequate supply of aggregates by:

- preparing an annual Local Aggregate Assessment, either individually or jointly by agreement with another or other mineral planning authorities, based on a rolling average of 10 years sales data and other relevant local information, and an assessment of all supply options (including marine dredged, secondary and recycled sources);
- participating in the operation of an Aggregate Working Party and taking the advice of that Party into account when preparing their Local Aggregate Assessment;
- making provision for the land-won and other elements of their Local Aggregate Assessment in their mineral plans taking account of the advice of the Aggregate Working Parties and the National Aggregate Co-ordinating Group as appropriate. Such provision should take the form of specific sites, preferred areas and/or areas of search and locational criteria as appropriate;
- taking account of published National and Sub National Guidelines on future provision which should be used as a guideline when planning for the future demand for and supply of aggregates;
- using landbanks of aggregate minerals reserves principally as an indicator of the security of aggregate minerals supply, and to indicate the additional provision that needs to be made for new aggregate extraction and alternative supplies in mineral

- plans;
- making provision for the maintenance of landbanks of at least 7 years for sand and gravel and at least 10 years for crushed rock, whilst ensuring that the capacity of operations to supply a wide range of materials is not compromised. Longer periods may be appropriate to take account of the need to supply a range of types of aggregates, locations of permitted reserves relative to markets, and productive capacity of permitted sites;
 - ensuring that large landbanks bound up in very few sites do not stifle competition; and
 - calculating and maintaining separate landbanks for any aggregate materials of a specific type or quality which have a distinct and separate market.

Shropshire Core Strategy

CS20: Strategic planning for Minerals

Shropshire's important and finite mineral resources will be safeguarded to avoid unnecessary sterilisation and there will be a sustainable approach to mineral working which balances environmental considerations against the need to maintain an adequate and steady supply of minerals to meet the justifiable needs of the economy and society. This will be achieved by: Protecting the Mineral Safeguarding Areas (MSA's) and rail freight facilities which could contribute to the sustainable transport of minerals which are identified in Figure 10. Non-mineral development in these areas or near protected railfreight sites will be expected to avoid sterilising or unduly restricting the working of proven mineral resources, or the operation of mineral transport facilities, consistent with the requirements of national and regional policy. Encourage greater resource efficiency by supporting the development and retention of waste recycling facilities which will improve the availability and quality of secondary and recycled aggregates in appropriate locations as set out in Policy CS 19; Maintaining landbanks of permitted reserves for aggregates consistent with the requirements of national and regional policy guidance. 'Broad locations' for the future working of sand and gravel are identified in Figure 11. Sites capable of helping to deliver the sub-regional target for sand and gravel will be allocated within these areas in the Site Allocations and Management of Development DPD; Only supporting proposals for sand and gravel working outside these broad locations and existing permitted reserves, where this would prevent the sterilisation of resources, or where significant environmental benefits would be obtained, or where the proposed site would be significantly more acceptable overall than the allocated sites; Supporting environmentally acceptable development which facilitates the production of other mineral resources such as crushed rock, clay and building stone to meet both local needs, including locally distinctive materials, and to help meet cross boundary requirements. Environmentally acceptable proposals for the exploration, appraisal and production of hydrocarbon resources, including coalbed methane, will be supported as a contribution to meeting the requirements of national energy policy; Requiring development applications for mineral working to include proposals for the restoration and aftercare of the site. Priority will be given to environmentally acceptable proposals which can deliver targeted environmental or community benefits consistent with Policies CS8 and CS17. More detailed policies against which applications for mineral development can be assessed will be provided in the Site Allocations and Management of Development DPD.

SAMDev Plan

Policy MD5: Sites for Sand and Gravel Working

1. The supply of sand and gravel during the Plan period should be provided in the first instance from existing permitted sites and then from the development of mineral working at the site identified on the Proposals Map and allocated in Schedule MD5a below;
2. Where monitoring demonstrates that the further controlled release of sand and gravel reserves is required, then the subsequent development of mineral working will be considered at the sites identified in Schedule MD5b below. Applications for earlier development of these sites will be considered on their merits. In considering any such application, particular regard will be paid to:
 - i. the need for minerals development to maintain an adequate and steady supply of sand and gravel consistent with the established production guideline;
 - ii. the need to control potential cumulative impacts associated with concurrent or sequential mineral extraction operations in a specific area, including through the imposition of output or timescale restrictions where these are necessary to reduce the potential for market oversupply and cumulative adverse environmental impacts;
 - iii. whether the early release of the site would enhance sustainability through meeting an identified local need.
3. Proposals for mineral working falling outside the allocated areas will be permitted where developers can demonstrate that:
 - i. the proposal would meet an unmet need or would prevent the sterilisation of the resource; and,
 - ii. the proposal would not prejudice the development of the allocated sites; and,
 - iii. significant environmental benefits would be obtained as a result of the exchange or surrender of existing permissions or the site might be significantly more acceptable overall than the allocated sites, and would offer significant environmental benefits.

Schedule MD5a: Phase 1 Site Allocations:

Development of the allocated mineral sites identified on the Proposals Map should be in accordance with relevant Local Plan policies and the development guidelines set out in this schedule.

MD16 - Mineral Safeguarding

Transport and processing facilities will not be granted unless the applicant can demonstrate that:

1. The development proposed would not prevent or unduly restrict the continued operation of the protected infrastructure; or,
2. That the identified facilities are no longer required or that viable alternative facilities are available. MSA boundaries and protected mineral transport and processing facilities are identified on the Policies map and insets. The buffer zones which will apply to protected resources and facilities are identified in the explanatory text below.
3. Applications for permission for non-mineral development in a MSA must include an assessment of the effect of the proposed development on the mineral resource beneath or adjacent to the site of the development or the protected mineral handling facility (termed a Mineral Assessment). This assessment will provide information to accompany the planning application to demonstrate to the satisfaction of the MPA that mineral interests have been adequately considered and that known mineral resources will be prevented, where possible, from being sterilised or unduly restricted by other forms of development occurring on or close to the resource;

4. Identification of these areas does not imply that any application for the working of minerals within them will be granted planning permission.

MD17: Managing the Development and Operation of Mineral Sites

1. Applications for mineral development will be supported where applicants can demonstrate that potential adverse impacts on the local community and Shropshire's natural and historic environment can be satisfactorily controlled. Particular consideration will be given (where relevant) to:
 - i. Measures to protect people and the environment from adverse effects, including visual, noise, dust, vibration and traffic impacts;
 - ii. The site access and traffic movements, including the impact of heavy lorry traffic on the transport network and the potential to transport minerals by rail. Where opportunities to transport minerals by rail are not feasible there will be a preference for new mineral sites to be located where they can obtain satisfactory access to the Primary Route Network;
 - iii. The cumulative impact of mineral working, including the concurrent impact of more than one working in a specific area and the impact of sustained working in a specific area;
 - iv. Impacts on the stability of the site and adjoining land and opportunities to reclaim derelict, contaminated or degraded land (Policy CS6);
 - v. Effects on surface waters or groundwater and from the risk of flooding (Policy CS18);
 - vi. Effects on ecology and the potential to enhance biodiversity;
 - vii. The method, phasing and management of the working proposals;
 - viii. Evidence of the quantity and quality of mineral and the extent to which the proposed development contributes to the comprehensive working of mineral resources and appropriate use of high quality materials;
 - ix. Protecting, conserving and enhancing the significance of heritage assets including archaeology.

Where necessary, output restrictions may be agreed with the operator to make a development proposal environmentally acceptable.

2. Mineral working proposals should include details of the proposed method, phasing, long term management and maintenance of the site restoration, including progressive restoration towards full reinstatement of occupied land and removal of all temporary and permanent works. A satisfactory approach will avoid the creation of future liabilities and will deliver restoration at the earliest practicable opportunity to an agreed after-use or to a state capable of beneficial after-use. Where the proposed after-use includes agriculture, woodland, amenity (including nature conservation) or other uses, a satisfactory scheme will need to include the following:
 - i. Proposals which take account of the site, its surroundings, and any development plan policies relevant to the area;
 - ii. Evidence to show that the scheme incorporates best practice advice and is practical and achievable;
 - iii. A Management Plan, which should address the management requirements during each phase of the proposed development;
 - iv. A Reclamation Plan;
 - v. Provision for a 5 year period of aftercare;

Where appropriate, a planning obligation will be sought in order to secure the after-use, long term management and maintenance of the site.

3. Proposals for the working of unconventional hydrocarbons should clearly distinguish between exploration, appraisal and production phases and must demonstrate that they can satisfactorily address constraints on production and processing within areas that are licensed for oil and gas exploration or production. Particular consideration will be given to the need for comprehensive information and controls relevant to the protection of water resources;
 4. Where relevant, applications for the winning and working of coal should include proposals for the separation and stockpiling of fireclay so that its value as a mineral resource can be captured;
 5. A flexible approach will be adopted to the duration of planning consents for very small scale, intermittent but long term or temporary working to work locally distinctive building and roofing stone consistent with the objectives of Policy MD2;
 6. Where ancillary development is proposed, proposals should include satisfactory measures to minimise adverse effects, including:
 - i. Locating the ancillary development within or immediately adjacent to the area proposed for mineral working or on an established plant site;
 - ii. Restricting the principal purpose to a purpose in connection with the winning and working of minerals at the site or the treatment, storage or removal of minerals excavated or brought to the surface at that site;
 - iii. For imported minerals, where necessary, to limit the quantities involved to control the volume and type of traffic, and the establishment of an acceptable route for the traffic to and from the site;
 - iv. The cessation of the ancillary development when working of the mineral for which the site was primarily permitted has ceased and removal of plant and machinery to allow full restoration of the site.

Where ancillary development could have an adverse effect on the local environment which cannot be mitigated to acceptable levels, a condition may be attached to the planning permission to control the adverse effects by limiting development to an established plant site, or introducing a stand off from sensitive land uses, or mitigating effects in other ways, or as a last resort, withdrawing permitted development rights so that the ancillary development can be properly controlled by the terms of the planning permission
11. HUMAN RIGHTS
- 11.1 Article 8 give 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
- 12 RELEVANT PLANNING HISTORY:
- 09/02178/A21 Approval of details required by condition 13 of Planning Permission Ref SC/MS2008/1225/SY for extension to PPNREQ 21st August 2009;

- 11/01261/DIS Discharge of condition 50 (plan defining the different aftercare agricultural and non-agricultural areas and the anticipated aftercare timescales) attached to planning permission SC/MS2008/1225/SY - Extension of sand and gravel extraction into 4.4 hectares of agricultural land; together with the minor reconfiguration of the mineral extraction boundary within the existing quarry curtilage by widening working into 0.6 hectares of land to release additional reserves; and the retention and utilisation of existing quarry facilities NPW 10th March 2011
- 11/01328/DIS Discharge of condition number 50 (aftercare) attached to planning permission reference SC/MS2008/1225/SY - Extension of sand and gravel extraction into 4.4 hectares of agricultural land; together with the minor reconfiguration of the mineral extraction boundary within the existing quarry curtilage by widening working into 0.6 hectares of land to release additional reserves; and the retention and utilisation of existing quarry facilities PCO
- 12/04638/DIS Discharge of Condition 40 (Restoration detail of the habitat creation areas) attached to planning ref. MS2008/1225/SY. Extension of sand and gravel extraction into 4.4 hectares of agricultural land; together with the minor reconfiguration of the mineral extraction boundary within the existing quarry curtilage by widening working into 0.6 hectares of land to release additional reserves; and the retention and utilisation of existing quarry facilities DISAPP 17th December 2012
- 15/01476/VAR Variation of condition 5 (time constraints) pursuant to MS2008/1225/SY to allow for continuation of mineral extraction GRANT 26th January 2015
- 17/02833/MAW Extraction of sand and gravel with restoration to agriculture, open water and ecological habitat WDN 21st May 2019
- 17/02834/VAR Variation of conditions pursuant to 15/01476/VAR to enable the working of a proposed southern extension (conditions to be varied 2a, 2b, 5, 33, 34a, 43a, 44) WDN 21st May 2019
- 19/01261/MAW Application for a southern extension to the existing sand and gravel quarry, retention of all existing operational facilities and site access and revised restoration of the existing site PDE
- 19/05025/VAR Variation of Condition No.5 attached to planning permission 15/01476/VAR to extend the time period for completion of mineral extraction and restoration PCO
- SC/MS2008/1225/SY Extension of sand and gravel extraction into 4.4 hectares of agricultural land; together with the minor reconfiguration of the mineral extraction boundary within the existing quarry curtilage by widening working into 0.6 hectares of land to release additional reserves; and the retention and utilisation of existing quarry facilities GRANT 10th July 2009
- SC/MS1998/0832/SY Extension of quarry operations onto 11 hectares of land together with the retention of the existing quarry facilities and a revised restoration scheme for the entire site PERMIT 17th August 1999

List of Background Papers:

Planning Application reference 19/01261/MAW and the accompanying Environmental Statement.

Cabinet Member (Portfolio Holder): Cllr G Butler

Local Member: Cllr Dan Morris

Appendices: Appendix 1 – Conditions

Appendix 2 - Habitats Regulations Assessment (HRA)

APPENDIX 1

Legal Agreement Clauses:

(to be carried forward / AMENDED from application SC/MB2005/0336/BR)

- i. Traffic routing and management agreement including preventing mineral lorries from leaving in or approaching from a southerly direction except where local access is required;
- ii. Funding by the developer (£15k) towards the repair and a maintenance of the stretch of local highway between the site access and the A49 over the operational life of the proposed extension.
- iii. Delivery of footpath link through the quarry site allowing pedestrian linkage between Condover and Bayston Hill.

Conditions

1. The development to which this planning permission relates must be begun not later than the expiration of three years from the date of this permission. The date at which development is begun shall be referred to hereinafter as ‘the Commencement Date’.

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

DEFINITION OF THE PERMISSION

- 2a. This permission shall relate to the area edged red on the Land interest and planning application area plan approved location plan accompanying the application (Drawing no. LD104-CQ-108) hereinafter referred to as the “Site” and comprising the existing quarry plant site and the southern extension area.
 - b. Unless otherwise required by the conditions attached to this permission, the development hereby permitted shall be undertaken in accordance with the approved scheme which comprises the following:
 - i. The application form dated 14th March 2019
 - ii. The Non-Technical Summary;
 - iii. The planning application supporting statement;
 - iv. The Environmental Statement and accompanying appendices.
 - iv. The submitted drawings accompanying the Environmental Statement, namely:

- Condover Restoration - LD104-CQ-102
- Condover Working plan - Ph 1 - LD104-CQ-103;
- Condover Working plan - Ph 2 - LD104-CQ-104;
- Condover Working plan - Ph 3 - LD104-CQ-105;
- Condover Working plan - Ph 4 - LD104-CQ-106;
- Location Plan - LD104-CQ-107;
- Application Plan - LD104-CQ-108;
- Restoration plan including plant site - LD104-CQ-112;
- Condover working section - A-A LD104-CQ-109;
- Condover working section - B-B LD104-CQ-110;
- Condover working section - C-C LD104-CQ-111.

c. The Further information comprising:

- The updated technical note from Envireau Water dated 13/12/19.
- The letter from Landesign dated 2/07/19 responding to the objection from Leith Planning;
- The letter from Landesign dated 2/07/19 responding to statutory consultee comments;
- The response from WYG dated 13/05/19 to the consultation response from Shropshire Council Regulatory Services.

Reason: To define the Site and permission

TIME LIMITS

- 3a. No less than 7 days prior notice of the commencement of the first stripping of soils in the southern extension area under the terms of this permission shall be given in writing to the Local Planning Authority. Such date shall be referred to hereinafter as 'the Commencement Date'.
- b. No less than 7 days prior notice of the commencement of mineral extraction in the southern extension area shall be given in writing to the Local Planning Authority.

Reason: To define and provide appropriate advanced notice of the Commencement Date and the date for commencement of mineral working under the terms of this permission.

4. Extraction of sand and gravel from the site shall cease within 15 years of the Commencement Date and final restoration shall be completed within 2 years of the cessation date for mineral extraction.

Reason: To define the permitted timescale for working and restoration.

LIMITS OF MINERAL EXTRACTION

5. There shall be no entry into each new mineral working phase until the limits of that phase have been physically defined by wooden posts or other appropriate means. The

boundaries so marked shall be retained in position for the duration of the extraction operations within that phase.

Reason: To ensure that the limits of the extension area and of mineral extraction within the extension area are properly defined.

OUTPUT

- 6a. Mineral shall not be exported from the Site at a rate exceeding 250,000 tonnes per calendar year (commencing on 1st January and ending on 31st December).
- b. Written records of the tonnage of mineral produced from the Site shall be provided to the Local Planning Authority upon prior request within three months of the end of each calendar year.

Reason: In the interests of highway safety and to ensure that the production and export of mineral is controlled at a level which will protect the amenities of the local area.

NOISE AND DUST

- 7a. Noise levels during normal mineral working operations shall not exceed a level of 50dB LAeq,1h (free field) at any of the 9 nearby noise sensitive receptor locations identified in the WYG noise assessment accompanying the Environmental Statement.
- b. Notwithstanding condition 7a, noise levels shall not exceed 70dB(A) LAeq 1h (free field) at any of the 9 sensitive receptor locations during temporary operations such as soil stripping. The increase in noise levels allowable for temporary operations shall not apply for more than 8 weeks in total in any year.
- c. A noise monitoring scheme to demonstrate ongoing compliance with the noise limits specified in conditions 7a and 7b above shall be submitted to the Local Planning Authority prior to the Commencement Date and the approved measures shall thereafter be implemented in full.

Reason: To protect the amenities of occupants of nearby properties from the adverse impact of noise emissions

- 8a. All plant and machinery used within the Site shall incorporate silencers in accordance with the manufacturers' specification and those silencers shall be maintained in good condition.
- b. All quarry plant and machinery which is required to be fitted with reversing alarms shall be fitted with attenuated or non-audible reversing alarms rather than reversing beepers.

Reason: To assist in safeguarding the amenities of the area from noise disturbance.

- 9. Water shall be applied to main haul roads and other areas as necessary within the Site in order to prevent the generation of dust by vehicular/plant traffic.

Reason: To assist in safeguarding the amenities of the area from dust disturbance.

10. In the event that a complaint is received regarding noise or dust impact and is subsequently validated by the Local Planning Authority the Developer shall submit a mitigation scheme for the approval in writing of the Local Planning Authority which shall provide for the taking of appropriate remedial action within an agreed timescale. The mitigation scheme shall be submitted within 10 working days from the day when the Developer is notified of the valid complaint and the scheme shall be implemented in accordance with the approved details.

Reason: To assist in safeguarding the amenities of the area from noise or dust disturbance by implementing an agreed procedure for dealing with any complaints.

LIGHTING

11. No additional fixed lighting shall be installed at the quarry unless details of such lighting have been submitted to and approved in writing by the Local Planning Authority. The submitted additional lighting details shall comply with current best practice guidance for the control of light pollution, including preventing adverse effects on wildlife. Following its approval, the new lighting shall be installed and maintained in accordance with the approved details.

Reason: To safeguard the amenities of the area from light pollution.

HOURS OF WORKING

- 12a. Subject to conditions 12d and 12e the operations hereby permitted shall not take place other than between the following hours unless authorised in writing by the Local Planning Authority:

0700 hours and 1830 hours on weekdays;
0700 hours and 1300 hours on Saturdays.

- b. Unless otherwise first approved in writing by the Local Planning Authority no operations shall take place on Bank and Public Holidays and no operations other than maintenance as defined by condition 12c below shall take place on Sundays.

- c. Unless otherwise approved by the Local Planning Authority no maintenance of plant or machinery within the Site shall take place outside the hours of:

0700 hours and 1830 hours on weekdays;
0700 hours and 1700 hours on Saturdays;
0800 hours and 1200 hours on Sundays.

- d. Notwithstanding Condition 12a the following reduced working hours shall apply for mineral working and associated activity within 100m of the boundaries of the property known as Norton Lodge until the main working floor of the quarry in these nearest areas has exceeded a depth of 87m AOD whereupon the hours in Condition 12a shall apply.

0730 hours and 1800 hours on weekdays;
No working on Saturdays and Bank or Public Holidays.

The boundary shall be physically marked on the site.

- e. Notwithstanding Condition 12a the following reduced working hours shall apply for all earthmoving operations including soil stripping and bund formation within 100m of the boundaries of the properties known as 1 and 2 Allfield Cottage:

0730 hours and 1800 hours on weekdays;
No working on Saturdays and Bank or Public Holidays.

The boundary shall be physically marked on the site.

- f. Up to 6 temporary relaxations to the permitted hours in a-e per annum can be agreed by the submission of a prior 'temporary hours relaxation' scheme to be submitted in writing to the Local Planning Authority. The scheme shall include the following details:-
- The temporary relaxation required;
 - The duration of that relaxation;
 - The reasons justifying the temporary relaxation;
 - The likely operations being carried out during the temporary relaxation period.

The LPA may then choose to agree to such relaxation subject to such other conditions and restrictions during that temporary relaxation period as are reasonable.

Reason: In the interests of residential amenity.

HIGHWAYS

18. The internal access road from the Condover Road to the quarry plant site shall be maintained in an even and pothole free condition for the duration of the quarrying operation hereby approved.

Reason: To ensure a satisfactory form of access is provided in the interests of highway safety.

19. A wheel wash facility shall be maintained at the Site for the duration of the operations hereby permitted. Wheel cleaning shall be employed by all heavy goods vehicles leaving the Site so as to avoid the deposit of mud on the public highway. In those circumstances where mud or dust has been transported onto the metalled access road a tractor mounted brush or other similar device shall be employed in order to clean the road.

Reason: In the interests of highway safety.

Informative Notes:

- i. Mud on highway: The applicant is responsible for keeping the highway free from any mud or other material emanating from the application site or any works pertaining thereto.

- ii. No drainage to discharge to highway: Drainage arrangements shall be provided to ensure that surface water from the driveway and/or vehicular turning area does not discharge onto the public highway. No drainage or effluent from the proposed development shall be allowed to discharge into any highway drain or over any part of the public highway.
- iii. Works on, within or abutting the public highway: This planning permission does not authorise the applicant to:
- construct any means of access over the publicly maintained highway (footway/verge) or
 - carry out any works within the publicly maintained highway, or
 - authorise the laying of private apparatus within the confines of the public highway including any a new utility connection, or
 - undertaking the disturbance of ground or structures supporting or abutting the publicly maintained highway

The applicant should in the first instance contact Shropshire Councils Street works team. This link provides further details

<https://www.shropshire.gov.uk/street-works/street-works-application-forms/>

Please note: Shropshire Council require at least 3 months' notice of the applicant's intention to commence any such works affecting the public highway so that the applicant can be provided with an appropriate licence, permit and/or approved specification for the works together and a list of approved contractors, as required.

- iv. Extraordinary maintenance: The attention of the applicant is drawn to Section 59 of the Highways Act 1980 which allows the Highway Authority to recover additional costs of road maintenance due to damage by extraordinary traffic.
- v. Protection of visibility splays on private land The applicant's attention is drawn to the need to ensure that the provision of the visibility splay(s) required by this consent is safeguarded in any sale of the application site or part(s) thereof.

RESTRICTION ON G.P.D.O. RIGHTS

20. Notwithstanding the provisions of Part 17 A of the Town and Country Planning General Permitted Development Order 2015 or any re-enactment of this statute, no fixed plant, mobile processing plant, machinery, buildings, structures, or erections of the nature of plant or machinery, shall be erected without the prior written approval of the Local Planning Authority.

Reason: To ensure that any proposals to erect additional plant or structures within the Site are consistent with the need to protect the environment and visual amenities of the area, taking account of the ability of existing vegetation to perform an acceptable screening function.

DRAINAGE / POLLUTION

- 21a. Any facilities for the storage of oils, fuels or chemicals shall be sited on impervious bases and shall be of either a double skinned construction or be surrounded by impervious bund walls. The volume of the bunded compound shall be at least equivalent to the capacity of the tank plus 10%. If there is multiple tankage, the compound shall be at least equivalent to the capacity of the largest tank, vessel or the combined capacity of interconnected tanks or vessels plus 10%. All filling points, associated pipework, vents, gauges and sight glasses must be located within the bund or have separate secondary containment. The drainage system of the bund shall be sealed with no discharge to any watercourse, land or underground strata. Associated pipework shall be located above ground and protected from accidental damage. All filling points and tank/vessels overflow pipe outlets shall be detailed to discharge downwards into the bund.

Reason: To prevent pollution of the water environment.

- 22a. Within six months of the date of this planning permission a groundwater and surface water level monitoring scheme shall be submitted for the written approval of the Local Planning Authority (LPA) in consultation with the Environment Agency. Thereafter the approved scheme shall be implemented in accordance with the approved plans. The Scheme shall include:

- i. Continued monitoring of the proposed monitoring boreholes identified in Table 1 of the Environmental Statement Appendix L – Scheme of Monitoring, Envireau Water, Rev: 30/3/2017. Such monitoring shall continue for the life of the development, until the expiry of the five year aftercare period;
 - ii. monitoring locations (surface and groundwater);
 - iii. method and nature of sampling/measurement;
 - iv. a programme detailing frequency and duration of monitoring along with details of how and when the monitoring data and the Scheme itself shall be reviewed to assess if impacts (if any) are occurring;
 - v. trigger levels when action is required to protect a water feature;
 - vi. details of any contingency and mitigation proposals should a trigger level be breached and an impact apparent at a water feature.
- b. In the event that monitoring of groundwater / surface water indicates that a trigger level approved under Condition 22a has been breached a report and scheme investigating the reason for the breach shall be submitted to and approved in writing by the Local Planning Authority in consultation with the Environment Agency. The scheme shall set out mitigation proposals in the event that the monitoring data identifies a significant adverse impact or risk of deterioration which is likely to be attributable to the mineral extraction. The mitigation measures shall in such circumstances include provision for the mineral extraction to cease temporarily whilst investigation into the apparent deterioration is undertaken. The submitted proposals shall be implemented in accordance with the approved details.

Reason: To prevent any deterioration of ground or surface waters ('controlled waters' as defined under the Water Resources Act 1991), including surface and ground waters.

Notes:

- i. *The Environment Agency advises that an appropriate monitoring frequency would be at least monthly (for dip monitoring or time-series data via logger) during the extraction phase of development.*
- ii. *The Environment Agency advises that the existing quarry site currently being dewatered can be dealt with under transitional arrangements. In the case of “transitional” applications, mineral operators will have two years from the date when exemptions are lifted to submit a valid licence application. The Environment Agency will then have a period of up to five years to determine these licences, from the end of the initial two-year period. Provided that ‘valid’ applications are made prior to the two year deadline, the sites will be able to continue to dewater whilst the applications are being determined. Therefore if the applicant has not yet applied for a transitional licence for the dewatering activity on the quarry area currently in use they would need to seek to do so as soon as possible.*

Archaeology

- 23. No development approved by this permission shall commence until the implementation of a programme of archaeological work in accordance with a written scheme of investigation approved by the Local Planning Authority has been secured. This written scheme shall be approved in writing by the Planning Authority prior to the commencement of works.

Reason: The site is known to hold archaeological interest

SOIL / MATERIAL MOVEMENT AND STORAGE

- 24. No waste, overburden or silt other than those arising as a direct result of the excavation and processing of mineral on the Site shall be deposited within the Site and such materials shall be used-in the restoration of the site.

Reason: To define the types of restoration material for use at the Site.

- 25. All topsoil and subsoil shall be permanently retained on Site for use in restoration and shall be stripped to its full depth within excavation areas.

Reason: To prevent loss or damage to soils and offset any shortfalls of soil by using geological material.

- 26. No plant or vehicles shall cross any area of un-stripped topsoil or subsoil except where such trafficking is essential and unavoidable for the purpose of undertaking the permitted operations. Essential trafficking routes shall be marked so as to give effect to this condition.

- b. No part of the Site shall be excavated or traversed or used for a road or for the stationing of plant or buildings, or storage of soils, mineral or overburden, until all available topsoil and subsoil has been stripped from that area so affected. Where soils are stripped to less than 1 metre depth the developer shall take action to rectify this deficiency by using soil making materials recovered during the working of the Site.

Reason: To prevent damage to soil structure.

27. All topsoil, subsoil and soil making materials shall be stored in separate mounds which:
- i. do not exceed 3.5 metres in height for topsoil and 5 metres for subsoil unless otherwise approved by the Local Planning Authority;
 - ii. shall be constructed with external bund gradients not exceeding 1 in 2;
 - iii. shall be constructed with only the minimum amount of compaction to ensure stability and so shaped as to avoid the collection of water in surface undulations;
 - iv. shall not be traversed by heavy vehicles or machinery except where essential for the purpose of mound construction or maintenance;
 - v. other than as set out in the proposed phasing plans, shall not subsequently be moved or added to until required for restoration unless otherwise agreed by the Local Planning Authority;
 - vi. shall be seeded or hydra-seeded as appropriate as soon as they have been formed;
 - vii. if continuous mounds are used, dissimilar soils shall be separated by either hay, sheeting or such other suitable medium.

Reason: To prevent loss of soil and minimise damage to soil structure.

SITE MAINTENANCE

28. All existing and proposed perimeter hedges, fences and walls shall be maintained and made stock-proof where appropriate from the commencement of the development until the completion of aftercare.

Reason: To protect the welfare of any livestock kept within the permitted Site and on adjoining land

29. All undisturbed areas of the Site shall be kept free from weed infestation by cutting, grazing or spraying as necessary.

Reason: To prevent a build-up of weed seeds in the soil, whilst protecting the nature conservation value of the non-agricultural areas.

SLOPE STABILITY

30. The stability of all slopes within the Site shall be the subject of ongoing review throughout the duration of the extraction, restoration and aftercare operations hereby approved. In the event that any stability problems with the potential to adversely affect adjacent land or the use of the site are identified following assessment by a competent person, such problems shall be notified to the Local Planning Authority within two weeks of them becoming apparent. Appropriate remedial measures, as determined by a competent person, shall then be employed in accordance with an agreed timescale, including if necessary drainage works and/or erosion remediation and/or buttressing with indigenous fill materials to ensure the continued stability of all areas within the Site.

Reason: To ensure slope stability is maintained.

ECOLOGY

31. A minimum of 3 external woodcrete bat boxes suitable for nursery or summer roosting for small crevice dwelling bat species, shall be erected on the site. The boxes shall be sited at an appropriate height above the ground, with a clear flight path and where they will be unaffected by artificial lighting. Within 3 months of the commencement of development, the makes, models and locations of the bat boxes shall be submitted to and approved in writing by the Local Planning Authority. The boxes shall thereafter be maintained for the lifetime of the development.

Reason: To ensure enhanced provision of roosting opportunities for bats, in accordance with MD12, CS17 and section 118 of the NPPF.

32. Within 3 months of the commencement of mineral extraction from the Southern Extension, the makes, models and locations of bird boxes to be erected on site shall be submitted to and approved in writing by the Local Planning Authority. These shall include, but not be restricted to:
- i. 3x small open-fronted nest boxes suitable for Spotted Flycatcher (with a 75mm width open slot at the front) positioned 30-50m apart, at a height of 2 to 4m above ground with a clear outlook into open woodland;
 - ii. 3x medium open-fronted nest boxes suitable for Song Thrush (with a 75 – 100mm width open slot at the front), positioned 30-50m apart, at a height of 2-4m above ground with a clear outlook into open woodland;
 - iii. 3x small open-fronted nest boxes suitable for Dunnock (with a 75mm width open slot at the front) positioned 30-50m apart, at a height of 1 to 4m above ground close to dense foliage.

The nest boxes will be installed before the first nesting season after development commences and will be thereafter maintained for the lifetime of the development.

Reason: To mitigate for the loss of nesting sites and ensure the provision of nesting opportunities for wild birds, in accordance with MD12, CS17 and section 118 of the NPPF.

- 33a. Prior to the erection of any new external lighting on the site, a lighting plan shall be submitted to and approved in writing by the Local Planning Authority. The plan shall:
- i. identify those areas/features on site that are particularly sensitive for bats, where lighting is likely to cause disturbance in or around their breeding sites and resting places or along important routes used to access key areas of their territory, for example for foraging; and
 - ii. show how and where external lighting shall be installed (through provision of appropriate lighting contour plans and technical specifications) so that it can be clearly demonstrated that areas to be lit will not disturb or prevent the above species using their territory or having access to their breeding sites and resting places.
 - iii. Include no lighting on the access road.
- b. All external lighting shall be installed strictly in accordance with the specifications and locations set out on the plan, and thereafter retained for the lifetime of the development.

Under no circumstances should any other external lighting be installed without prior consent from the Local Planning Authority. The submitted scheme shall be designed to take into account the advice on lighting set out in the Bat Conservation Trust's Artificial lighting and wildlife: Interim Guidance: Recommendations to help minimise the impact artificial lighting (2014).

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

34. Other than as shown on the extraction phasing plans approved in this permission, no felling of other boundary trees and scrub shall take place on the development site under the terms of this permission. Boundary trees and scrub will be retained and protected during the lifetime of the development and restoration phase.

Reason: To protect woodland wildlife including bats (EU Protected Species), Badger and nesting birds (nationally protected), to maintain viable habitat connections around the site in accordance with MD12 and CS17 Environmental Networks and in the interests of visual amenity.

- 35a. Prior to entering each of phases 1,2 and 3 a landscaping plan shall be submitted to and approved in writing by the Local Planning Authority setting out the landscaping works proposed as part of the site development. The plan(s) shall include:

- i. Tree and shrub species lists for mixed native hedgerow and woodland creation including use of native species of local provenance (Shropshire or surrounding counties).
- ii. Numbers and planting patterns / mixes of trees and shrubs for hedge and woodland creation.
- iii. Means of ground preparation and planting pit specification where relevant.
- iv. Measures for tree protection and support (e.g. rabbit spirals and bamboo canes, or stakes and ties, or tree guards / shrub shelters).
- v. Written specifications (including cultivation and other operations associated with plant, grass and wildlife habitat establishment)
- vi. Schedules of native plants of local provenance, noting species (including scientific names), planting sizes and proposed numbers/densities where appropriate;
- vii. Planting plans;
- viii. Areas to be retained for natural regeneration with no or reduced spreading of topsoil;
- ix. Early year maintenance schedule (e.g. mulching and / or weeding, straightening and eventual removal of stakes and ties).
- x. Replacement of losses as appropriate to achieve 90% survival rates after 5 years.
- xi. Indicative timing of commencement and completion of the various phases of the scheme.
- xii. A scheme for the formation and treatment of water bodies to be established as part of the restoration of the Site including depths, gradient of banks, provision of safe and shallow shorelines, treatment of lake margins to promote the growth of appropriate vegetation and establishment of habitats and a timetable for the implementation of these works.
- xiii. A scheme for the restoration of the plant, stocks and lagoon areas.
- xiv. Fencing proposals;

The landscape and restoration plan shall be carried out as approved.

- b. The landscaping plan shall also identify the measures which shall be employed to maximise visual screening of the quarry plant site.
- c. Within 12 months of the date of this permission a restoration plan setting out the final indicative restoration proposals for the Site shall be submitted to the Local Planning Authority for its approval in writing. Such scheme shall set out those matters listed in conditions 35a (i-xvii) in relation to the final restoration plan for the Site. The approved final restoration plan shall be reviewed with the local planning authority as part of the annual review in condition 40. In the event that amendments to the existing scheme are identified during the annual review, a revised restoration scheme shall be submitted to the Local Planning Authority for written approval. Once approved, the restoration of the Site shall be implemented in accordance with the approved scheme and in accordance with any subsequent amendments to the scheme that are agreed in writing by the Local Planning Authority pursuant to this condition.

Reason: To ensure the provision of amenity and biodiversity afforded by appropriate landscape design (35a) and in the interests of visual amenity (35b).

- 36. No development shall take place (including demolition, ground works and vegetation clearance) until a habitat management plan has been submitted to and approved in writing by the Local Planning Authority. The plan shall include:
 - i. Description and evaluation of the features within the Site to be managed;
 - ii. Aims and objectives of management;
 - iii. Preparation of a works schedule (including an annual work plan and the means by which the plan will be rolled forward annually);
 - vi. Personnel responsible for implementation of the mabitat management plan;
 - v. Detailed monitoring scheme with defined indicators to be used to demonstrate achievement of the appropriate habitat quality;
 - vi. Subsequent submissions of remedial/contingency measures triggered by monitoring' in the event of indicators not being achieved.

Specific species management plans should also be provided in respect of Sand Martins, Badgers and bats. The plan shall be implemented in accordance with the approved details.

Reason: To protect and enhance features of recognised nature conservation importance, in accordance with MD12, CS17 and section 118 of the NPPF.

Informative notes:

- i. *Great crested newts are protected under the Habitats Directive 1992, The Conservation of Habitats and Species Regulations 2010 and the Wildlife and Countryside Act 1981 (as amended). It is a criminal offence to kill, injure, capture or disturb a great crested newt; and to damage, destroy or obstruct access to its breeding and resting places (both ponds and terrestrial habitats). There is an unlimited fine and/or up to six months imprisonment for such offences. If a great crested newt is discovered at any stage then all work must 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.

- ii. *All bat species found in the U.K. are protected under the Habitats Directive 1992, The Conservation of Habitats and Species Regulations 2010 and the Wildlife and Countryside Act 1981 (as amended). It is a criminal offence to kill, injure, capture or disturb a bat; and to damage, destroy or obstruct access to a bat roost. There is an unlimited fine and/or up to six months imprisonment for such offences. During all building renovation, demolition and extension works there is a risk of encountering bats which can be found roosting in unexpected locations. Contractors should be aware of the risk of encountering bats and should be vigilant when working in roof spaces and removing roof tiles etc. If a bat should be discovered on site then development works must halt and an appropriately qualified and experienced ecologist and Natural England (0300 060 3900) contacted for advice on how to proceed. The Local Planning Authority should also be informed.*

REMOVAL OF PLANT AND STRUCTURES

37. All buildings, plant or structures within the permitted Site which have been installed in connection with the operations authorised under this permission and are not required in connection with the approved afteruse shall be removed from the Site within 24 months of completion of mineral extraction under the terms of this permission and the sites of such buildings, plant and machinery shall be restored in accordance with the provisions of the approved restoration and aftercare schemes.

Reason: To assist in securing the full and proper restoration of the Site within an acceptable timescale.

AFTERCARE

38. Aftercare schemes for agricultural and non-agricultural areas shall be submitted for each restored section of the Site as soon as restoration has been completed to the satisfaction of the Local Planning Authority. The submitted schemes shall provide for the taking of such steps as may be necessary to bring the land to the required standard for wildlife or amenity use as appropriate. The submitted aftercare schemes shall specify in relation to each phase the steps to be taken and shall include, as appropriate:
- i. minor regrading works as necessary to alleviate the effects of settlement and surface ponding or minor improvements to landform in habitat areas;
 - ii. measures to reduce the effects of compaction;
 - iii. cultivation works;
 - iv. reseeding where necessary of any parts of the area sown which do not provide a satisfactory plant growth in the first year;
 - v. grass cutting or grazing;
 - vi. replacement of hedge and tree failures;
 - vii. weed and pest control;
 - viii. drainage including the construction/maintenance of ditches and soakaways;
 - ix. vegetation management proposals including as necessary firming, re-staking, fertiliser application, thinning and replacement of failures within the aftercare period;

- x. habitat management proposals within the aftercare period;
- xi. track maintenance within the Site;
- xii. repair to erosion damage;
- xiii. Drainage including the construction/maintenance of ditches, ponds or soakaways;
- ix. A system of under drainage where natural drainage is not satisfactory;
- x. Field Water Supplies.

Reason: To ensure the establishment of a productive afteruse for the agricultural area and suitable, varied wildlife habitat conditions for the non-agricultural areas of the Site in accordance with the details of the approved scheme.

39. Aftercare of the Site in accordance with the aftercare schemes referred to in Condition 38 above shall be carried out in each stage for a period of five years* following the agreement of an aftercare scheme for that stage of restoration.

Reason: To ensure the establishment of a productive afteruse for the agricultural area and suitable, varied wildlife habitat conditions for the non-agricultural areas of the Site in accordance with the details of the approved scheme.

ANNUAL REVIEW

- 40a. Before 1st February after the Commencement Date and after every subsequent anniversary of the Commencement Date for the duration of mineral working and restoration works under the terms of this permission an annual review of Site operations shall take place involving the Mineral Planning Authority and the Site operator. The Annual Review shall consider areas of working, mineral resource issues, progressive restoration and aftercare works undertaken during the previous calendar year and shall include proposals for working, restoration and aftercare for the forthcoming year. The Annual Review shall in particular review noise, dust, traffic, visual amenity associated with mineral working. It shall also detail proposals for aftercare works on all restored areas of the Site not already subject to an approved scheme, including areas of habitat management and planting, and shall take account of the need to provide the following as soon as practicable after the completion of the restoration operations:

- i. The steps to be taken and the period(s) during which they are to be taken in order to bring the land into approved afteruses, including habitat creation.
- ii. Drainage provisions as necessary for the restored areas.
- iii. The provision of fences, hedgerows, gates and water supplies.
- iv. The cultivation of the land to establish a seedbed suitable for the sowing of grass seed and to facilitate the planting of trees and shrubs.
- v. The fertilizing and liming of the Site in accordance with the requirements of the land as determined by soil analysis, but avoiding raising soil fertility of the open habitats of the non-agricultural areas.
- vi. A review of the production of mineral and use of fill sand in the previous year and implications for the future working and restoration of the Site.
- vii. A review of possible revisions to the approved restoration scheme for the Site.

Reason: To assist in ensuring establishment of the approved afteruses.



Committee and date

Southern Planning Committee

28 July 2020

Development Management Report

Summary of Application

<u>Application Number:</u> 19/03637/VAR	<u>Parish:</u>	Cleobury Mortimer
<u>Proposal:</u> Variation of condition no.8a (max. tonnage of materials imported) pursuant of 15/02626/MAW to allow for an increase in tonnage per annum		
<u>Site Address:</u> Withypool Farm, Cleobury Mortimer, Kidderminster, Shropshire DY14 0DB		
<u>Applicant:</u> BK Hinwood And Son		
<u>Case Officer:</u> Graham French	<u>email:</u> planningdmc@shropshire.gov.uk	



Recommendation:- Grant Permission subject to the conditions and legal obligation set out in Appendix 1.

REPORT

1.0 THE PROPOSAL

- 1.1 Planning permission was granted for an 800kw agricultural anaerobic digestion facility at Withypool Farm on 17th August 2015 (15/02626/MAW) and the facility has been operational since spring 2016. Feedstock is derived from an on-site poultry unit from crops including maize, grass silage, and whole crop silage which are grown on surrounding farmland. The “green energy” produced is used across the applicant’s holding. The digestate is used to fertilise the crops grown as feedstock for the digester.
- 1.2 The AD process occurs continuously with crops and manure being moved to the stationary feeder by a mechanical loader once a day, predominantly during daylight hours.
- 1.3 The agricultural buildings at Withypool Farm have historically been a focal point for farming activities and associated agricultural vehicle movements. The application for the AD facility stated that there was not anticipated to be any significant increase in HGV movements relative to historic norms although the nature of such movements may change. However, following the bringing into use of the facility objections were received from local residents regarding odour and an alleged intensification of heavy vehicle movements. Upon investigation of these complaints by the officer the applicant confirmed that feedstock input levels had increased above the currently permitted limit. This had been necessary in order to ensure that that the facility could reach its design capacity for energy production.
- 1.5 Condition 8a of the planning permission allows a maximum of 17,000 tonnes of feedstock to be used at the facility each year. The current application seeks to vary this condition in order regularise the situation by increasing the maximum feedstock level to 22,000 tonnes per year. There are no other proposed changes to the previously approved scheme.
- 1.6 No additional infrastructure would be required to accommodate the proposed increase in tonnage and the applicant states that the proposals would not change the energy rating of the facility. However, the applicant notes that as a result of ongoing discussions with the Environment Agency it may be necessary to place a dome on the digestate tank. This would form the subject of a separate planning submission.
- 1.7 The proposal is retrospective and the applicant is seeking to regularise the proposed variation through the current application.

2.0 SITE LOCATION / DESCRIPTION

- 2.1 The site (area 1.48ha) lies adjacent to the existing buildings of Withypool Farm which lies to the south of the A4117 highway running between Cleobury Mortimer and Doddington. Access is obtained from a minor road adjoining the A4117 some 0.5 miles to the north east.

2.2. The AD site has been located adjacent to the modern farm buildings at Withypool Farm, close to the primary sources of feedstock and to a local grid connection which receives exported electricity from the site.

2.3 The closest private residential receptors are Stable Tallet is over 600 metres to the south east and 3 properties at Hollywaste over 600 metres to the north east. The proposed development site is not located within a protected landscape area and is not near to any statutory environmental designations. The Shropshire Hills AONB extends to within 2.9km to the west of the site.

3. REASON FOR COMMITTEE DETERMINATION OF APPLICATION

3.1 The proposals have been referred to committee by Councillor Butler and the area development manager has agreed that relevant committee referral criteria are met under the Council's Scheme of Delegation.

4. CONSULTEE RESPONSES

4.1 Cleobury Mortimer Parish Council – Objection. The Town council discussed this application at its' meeting Monday 2nd September The Town council cannot support this application and Objects due to the concerns listed.

- The need to know results of Environmental health visit before a decision can be made.
- Concerned of public health issues and again require sight of Environmental Health report.
- Lack of public consultation previously and presently.
- Issues far greater that led to believe in 2015 at initial application.
- What can be done to mitigate current state first.
- All these needs answering before any decisions can be made.
- Needs to go to planning committee.

4.2ai. Environment Agency (23/09/19) - No objections. The changes proposed by this planning application will not breach the permit in terms of types or quantities of waste. These must however be managed appropriately to prevent pollution or increase the risk of harm to the environment or human health. We have completed 6 audits/regulatory inspections of the permitted activities since the biodigester began operating in April 2017. On all occasions we have not had any cause to record any breaches of the permit.

ii. The Environment Agency is currently investigating reports of odour from the local community. We have so far corroborated that there have been offensive odours during the spreading of digestate. We are currently investigating whether any of the offensive odours that have been reported are arising from the operation of the biodigester or storage of any materials associated with the biodigester as well as the other potential sources of odour in the area such as the cattle sheds. There is a strong correlation between land spreading of digestate from the farm and odour reports being made. At present the odour from spreading of the digestate and farm manures is not controlled by the Environment Agency, this is controlled under statutory nuisance legislation by the Council. We would advise that the views of Environmental Health are sought regarding the spreading and suitable controls.

- iii. Covering of slurry tanks is considered Best Available Techniques (BAT) within the intensive Environmental Permitting Regulations (formerly the Pollution Prevention and Control Regulations). The permit that the operator holds for this site is not an intensive farming permit, but the applicant may want to prioritise covering the digestate storage tanks as best practice.
 - iv. On 11 September 2019 my colleagues met with yourself after a request for our incident investigation log including the number of odour reports and inspections to the area to assess odour.
- 4.2b Environment Agency (23/01/20) As previously stated the changes proposed by this planning application will not breach the permit in terms of types or quantities of waste. I would reiterate the comments provided in my previous response but, additionally, can confirm that my colleagues have recently visited the site and continue to investigate reports of odour. We will be happy to provide an update on the outcome of this investigative work in due course.
- 4.2ci. Environment Agency (09/03/20) Further to my email of the 23 January 2020 I can provide an update on the investigative work currently being undertaken by my waste colleagues who regulate the above site.
- ii. My colleague Gareth Parsons attended an incident at Withypool Farm on Saturday 7 December 2019 while the site was in darkness. He rated the odour as a 6/6 on the road adjacent to the site. Madeleine Starks then attended on the Sunday 8 December and rated the odour as 3/6 on the road adjacent to the site. At the time of this incident neither Gareth or Madeleine were trained to conduct an inspection of an AD facility, however the primary objective was to verify the odours present; location, intensity, duration, type etc. Officers were not at the site to investigate the cause of the odour at the time. This was referred to the officer co-ordinating the regulation of the site (Gethin Bowley) in office hours on the Monday morning. This is standard practice for attendance of incidents out of hours unless the incident is very serious.
 - ii. Since this time we have updated the risk assessment for the facility to clarify to any officers attending where they can access safely at the site and that they must contact the farm owner whilst in the area. They should also observe what is happening at the farm to get the latest information. This information is now stored on our incident manual for all officers that are on duty to use. We have also escalated the issue to our national odour expert (Nick Sauer) to investigate further. He audited the site in January and met with both the local residents and the site operator. The audit has required additional data to be collected at the site which is being collated at present.

INTERNAL COMMENTS:

- 4.4 Regulatory Services – No comments received specifically in response to the current application. The officer was in dialogue with Regulatory Services in 2019 regarding odour complaints received from local residents.
- 4.5 WSP for Highway Authority – No objection. The proposal seeks to vary condition 8a attached to planning permission 15/02626/MAW to increase the annual tonnage of imported materials to 22000 tonnes. The figures submitted indicate that the increase in

tonnage will equate to (a worst-case scenario) of a further 1.3 vehicle movements per day and it is therefore considered that a highway objection to the variation of condition 8a would be unsustainable.

4.9 SC Historic Environment, Archaeology & Conservation: – No objections.

4.10 Flood & Water Management - No objection.

4.12 Councillor Madge Shingleton, Cllr Gwilym Butler (Cleobury Mortimer) – have been informed of the proposals.

Public Representations

4.13 The application has been advertised in accordance with statutory procedures. Objection letters have been received from 4 individuals. The main concerns can be summarised as follows:

- i. Odour: Since operations commenced in 2016 our lives have been blighted by bad odour smells from digestate/slurry spreading on the land close by and also the foul gas smell which blows up from the plant regularly on south westerly winds. The spreading of the digestate and slurry from this operation would also be increased by upping the tonnage. Last year Withypool rented more fields one of which is in full view of our kitchen window and one bedroom window. Aug 6th 2018 this black digestate and then slurry from the tanker/dribble bar was plastered on this field...about 20 yards from our kitchen and one bedroom window. At that time it was a heatwave and we couldn't sit in our own garden or open a window...we were imprisoned by this ammonia smelling stench. The smell from the Digester Plant and this digestate slurry spreading gives us terrible headaches and makes us feel nauseous which is a great concern to our future health. We have made many telephone calls to the Incident Hotline reporting these dreadful odours and have logged the Ref No's for future reference. The smell from the Digester plant and also from the digestate spread on the fields makes the washing smell and on many occasions has had to be re laundered. With other residents of Hollywaste we have visited the farmer Mr P Hinwood to talk the matter over and also had a site meeting with the E.A. on 21/1/19 because of the problems this is creating in our everyday lives. On that site visit with E.A. Officers Gethin Bowley, Mark Pearson & Madeline Starks and also Lucy Downes for Evolution Biogas plus Jack Hinwood it was found that one of the condensers was leaking gas and would have to be corrected. We are being plagued with noise and terrible smells which has caused serious harm to our health and wellbeing.
- ii. The smell is so bad we cannot open our windows, hang out washing, undertake gardening or outdoor activities. The smell can get so intense it gives me a headache, sore throat and I can be feeling sick and wheezy. This is seriously affecting the quality of life at Hollywaste. We have complained to the Environment Agency numerous times, reporting these issues regularly to them but they have not been able to remove the problems we have to face on a DAILY BASIS. Environmental Health at Shropshire Council are also aware of our problems and complaints have been made to planning and our unitary councillor. The smell occurs at various times of day and can be particularly bad late in the evening and at night. I am seriously concerned that the omissions from the site are not controlled and the EA will not provide us with any monitoring information. the applicant aims to increase the importation of off-farm waste

ie chicken litter, whey permeates, brewery washings and potato peel. I am seriously concerned about the 30% increase in tonnage to the site. Not only does this propose an increase in production but will increase the odour issues which are clearly not under control. I currently experience vile smells that penetrate my home, these will only be made worse if the tonnage is increased.

- iii. Please note that the original planning application to build the AD plant was granted permission on the basis that the AD process produces odourless waste (digestate). We have independent verification confirming that both dry and wet digestate is far from odourless. Wet digestate produces an evil pungent smell and is unbearable when spread. Last weekend (6th/7th/8th December) the smell coming from the AD plant was awful. No spreading had taken place. The smell was in our house, on washing hung on the line and made spending time outside unbearable. The community reported this to the EA hotline and EA Duty officer, Gareth Parsons, attended site on Saturday. He confirmed that the aroma was powerful enough to be rated 6/6. The 6/6 aroma rating was confirmed again by the attending EA officer on Sunday! Unfortunately we endured the same aroma issue yesterday, Saturday 14th December and intermittently today depending on wind direction. We have suffered the same type of aroma from the AD plant since it went into operation! Community calls to the EA have been documented and can be uploaded to this portal if required? We are nearly 12 months down the road from our site visit and yet we are still suffering the same vile aroma that we have done from the moment the plant was switched on. The community are prepared to work with the plant operators to reach an odourless conclusion.
- iv. Note that prior to the AD plant there were no complaints from the community about odours generated by standard farm practices. The post AD Plant aromas are not standard agricultural smells and do not follow the traditional agricultural calendar of aroma release. We are also experiencing more spillages of unbearably smelly material onto the road outside our property. There have been 2 spillages this week. If there is more movement of organic material then one can only assume that there will be the increased likelihood of road spillages. The smell currently generated by the plant is unacceptable. Surely the site must prove it has an effective odour management plan for its current approved tonnage? Following our Withypool site meeting the EA promised that a new OMP would be written and that they would submit the new proposal so that we would be able to read it. A time period of 6 weeks was suggested by the EA. Since that day, despite our requests, we have not seen the new OMP and the same gaseous smell continues to reach my home.
- v. Traffic: This digester has increased the traffic on these dangerous crossroads with contractors in convoy transporting harvested crops from Stottesdon area + at least twice a year using Common Lane which we live on...these big tractors/trailers take up the width of these lanes and the noise and speed which they travel destroy our peace and privacy. Large tankers and container lorries come regularly via the main A4117 from Cleobury or Clee Hill way and find it hard to negotiate the turn into the lane to get to Withypool Farm. Ironically a Council Rd sign reads "Unsuitable for Heavy Vehicles". The current proposal is to now have 50% of all input materials being imported and only 50% from farm manure and crops. This is not acceptable and makes the farm an industrial waste disposal site. The traffic generated from this industrial site in our rural community has increased dramatically with regular articulated lorries, numerous tankers and trailer loads of produce or waste travelling past our homes, down a single-track lane 'unsuitable for HGVs'.

- vi. The amount of traffic servicing the digester is already taking its toll on the lane leaving it damaged on the edges. The heavy lorries and huge tractors belch out diesel fumes when they rev up at the junction this will only increase. Are the 1.3 extra vehicle movements an average for 365 days, i.e. 1 year? Will the new material inputs be constant or will there be seasonal shifts based on the farms own material production? Will extra funding be provided by the Council to repair the single track road that has already deteriorated greatly from the current traffic increase caused by the digester? With a further predicted 475 vehicle movements per year the Council must consider its obligation to maintain the road, verges and passing points which will suffer further deterioration. The increase in the amount of traffic is huge. Artic lorry and tractor movements are constant. Hauling organic material to the farm and taking spent material away has caused the lane to deteriorate very significantly. If the digester is to consume more material the council have an obligation to improve the road which cannot cope with the current traffic levels.
- vii. Noise: The noise from the engine room etc is obviously more prominent at night and is like a combine running....not very environmental friendly and it's a case of throwing the covers over your head and not opening a window and worse when wind direction coming this way which is south westerly mainly in the summer months. The noise from the CHP unit/transformer is constant. This unit is running 24/7 and the noise can be heard from inside my house, half a mile away, due to location of the site. It is completely unacceptable that this noise permeates residential dwellings, especially during the night.

5. THE MAIN ISSUES

- Justification for the proposed increase in tonnage
- Odour control;
- Traffic;
- Noise.

6. OFFICER APPRAISAL

6.1 Justification for the proposed increase in tonnage:

- 6.1.1 Having operated the facility for 3 years the applicant has found that in order to maximise the production of renewable energy from the plant the volume and calorific content of the feedstock needs to be increased. The increase in feedstock volume is required to improve the volume, quality and consistency of gas production.
- 6.1.2 The applicant has also found that the home grown crops introduced into the AD facility are subject to variations in calorific value which can affect volumes of gas production. There has also been a significant reduction in herd size at the farm which affects the availability of liquid slurry feedstock within the unit. The alternative of introducing borehole water into the AD process to compensate for the loss of slurry volume was not considered to be sustainable. Re-circulation of digestate was also discounted as this can lead to a build-up of contaminants such as ammonia over time.
- 6.1.3 The new feedstocks include a proportion of agricultural wastes not available within the agricultural holding including chicken litter, whey permeates, brewery washings and

potato peel. It is proposed that these are additional feedstock types are imported from local agricultural processors with a 50:50 mix of imported to on-farm derived materials. The more diverse feedstock mix would allow the applicant to control the AD operations to produce a more stable and optimised gas yield. The Government now requires all new AD facilities are required to process at least 50% wastes to qualify for Renewable Heat Incentive and Feed In Tariff subsidies.

6.1.4 The application relates to a renewable energy scheme and the Government aims to increase the supply of renewable and low carbon energy (NPPF paragraph 151). The NPPF states (para 154) that 'when determining planning applications for renewable and low carbon development, local planning authorities should:

- a) not require applicants to demonstrate the overall need for renewable or low carbon energy, and recognise that even small-scale projects provide a valuable contribution to cutting greenhouse gas emissions; and
- b) approve the application if its impacts are (or can be made) acceptable'.

Shropshire Council recently declared a climate emergency and renewable energy plants such as the current site are one way in which the climate emergency can be addressed at a local level.

6.1.5 Given the national and local support for renewable energy and the technical considerations put forward by the applicant it is considered that the justification for the proposal can be supported in principle. This is provided that any effects caused by the proposals are acceptable or can be made so.

6.2 Consideration of environmental effects

6.2.1 The main objections raised by local residents relate to odour, traffic movement and noise. These concerns must be assessed against the baseline of the existing planning consent for an AD facility processing up to 17,000 tonnes of feedstock per year. The proposal to increase feedstock to 22,000 tonnes per year represents an increase of just over 25%. There are no other changes to the currently approved scheme of operations.

6.2.2 The comments of 4 local residents are listed in section 4.13 of this report. It is clear that operation of the facility has given rise to amenity concerns centred mainly around the small settlement of Hollywaste some 800m north of the AD facility. These concerns are acknowledged and it is necessary to assess the extent to which any valid concerns can be mitigated or may be exacerbated by the current retrospective proposals. Mitigation might include tightening of existing planning conditions and / or requiring additional measures at the site.

Odour

6.2.3 The principal concern raised by local residents relates to odour, with concerns both about odour from the AD facility itself and from the spreading of digestate on surrounding farmland, some of which is close to areas of residential property. The original AD planning application indicated that digestate would not generally have a strong odour and would be considerably less odorous than cattle slurry from the farm which has historically been spread in its raw state on surrounding fields. However, problems in securing the correct balance of feedstocks has led to the resulting

digestate having a generally stronger odour than had been anticipated. This has in turn led to complaints when the digestate is spread on surrounding land.

- 6.2.4 The applicant advises that whilst the current proposals involve an 25% increase in the level of feedstock this would actually allow a more balanced feedstock mix to be achieved. As such, the anaerobic decomposition process would be more effective and the resultant digestate would be expected to have a lower odour. There are currently over 20 operational AD sites in Shropshire, most of which are on-farm facilities like the current site which use agriculturally derived feedstocks. In general there has not been any significant history of odour complaints relating to the operation of these facilities or to the associated spreading of digestate on surrounding land. This supports the conclusion that when the AD process runs efficiently the resulting digestate does not have an offensive odour and is far less odorous than spreading of raw poultry manure or slurry.
- 6.2.5 The application is retrospective and the increased feedstock levels have been received at the facility for over 1 year. The most recent odour complaint which the Planning Authority was notified of dates from April this year and refers to 'muck spreading'. It is not clear whether this actually relates to digestate spreading. The complaint was investigated by Regulatory Services in association with the Environment Agency and the conclusion was that the farm was operating in accordance with the DEFRA code of good practice for land spreading. No further action was taken.
- 6.2.6 The Environment Agency has provided records of 2 site inspections carried out in summer 2019 when no odour or a slight odour was observed. The officer also inspected the site in summer 2019 when no odour was observed. Subsequently the Environment Agency inspected the site twice in December 2019 when a strong odour and a milder odour were observed. The Environment Agency subsequently referred the matter to their national odour expert but no further updates have been received.
- 6.2.7 The Environment Agency has confirmed that land spreading is being undertaken in accordance with the DEFRA good practice code. As such, the proposed 25% increase in feedstocks would not result in any greater application of digestate in any given area (as the DEFRA code sets out tonne per hectare limits) but would instead lead to an extension of the area in which digestate is spread. It is understood that the applicant has acquired more land to facilitate this spreading. Digestate is applied via a dribble bar and then is immediately ploughed into the land, As such, whilst digestate odour issues have been encountered an increase of 25% in feedstock levels is considered unlikely to exacerbate these issues in any given area. As indicated by the applicant it is to be expected that any digestate odour would reduce as the AD process becomes more efficient due to the proposed increase in feedstock types.
- 6.2.8 Regarding odour at the site itself it is understood that a faulty seal had previously led to a release of odour at the time of the Environment Agency's December 2019 inspection but that this problem had been rectified. It is also understood that the digestate holding tank may also be a source of odour at some times. The Environment Agency has advised that it is good practice to cover the digestate tank. The applicant has indicated that the Environment Agency might require a dome to be erected and this would require a separate planning permission. However, floating covers are also understood to be available and would not require planning permission. If permission is granted it is

recommended that a condition is imposed requiring a scheme to be submitted which provides for a cover to be installed on the digestate tank.

- 6.2.9 The original AD planning application is accompanied by an odour management plan and condition 11a of the permission requires operations to be in accordance with this plan, including:
- i. Management and containment of stored feedstock materials to reduce odour emissions;
 - ii. Ensuring that all site personnel recognise the importance of odour minimisation and that relevant personnel are aware of how to control odour emissions;
 - iii. Provision to cover the digestate storage tank if necessary in order to further reduce the potential for odour emission.

The original Odour Management Plan (OMP) was prepared and submitted by planning consultants in June 2015 as part of the background papers for the planning documentation. The site implements a revised up to date OMP as part of the Environmental Management System which is regulated by the Environment Agency. The OMP is reviewed and revised on an annual basis or more frequently if required.

- 6.2.10 Given the concerns raised by local residents in relation to odour it is considered appropriate that the OMP should be updated as a planning document to include consideration of odour from digestate spreading. Whilst digestate spreading is not directly controlled under the current planning consent or the Environmental Permit it is considered appropriate that an assessment of digestate odour is undertaken before digestate is exported from the site for spreading on fields and that particular care is taken in the manner and timing of such spreading in proximity to residential property. Appropriate conditions and advisory notes on odour has been recommended in Appendix 1.
- 6.2.11 Additional control over odour is exercised by the Environment Agency under the Environmental Permitting regime and by Regulatory Services under the statutory nuisance procedures. It is considered that the recommended conditions will provide improved planning control of odour issues relative to the current situation and that refusal of the proposed variation on odour grounds would not be justified in the context of the existing AD permission.

Noise

- 6.2.12 Objectors have complained that the gas engine is audible at night time. Condition 9 of the existing planning consent requires that night time noise from the site at the nearest noise sensitive property shall be limited to less than 5dBA above background noise levels. The officer's day time site investigation indicated that the gas engine was not audible at the site boundary which is considerably closer than the nearest private residential properties. However, ambient noise is quieter at night time. In view of the complaint which has been received it is considered that a condition should be imposed requiring the applicant to monitor night time noise at the site boundary to determine whether condition 9 is being complied with. It should be noted however that the gas engine operates on a 24/7 basis under the existing planning consent and that there would be no change to this under the proposed variation.

Traffic

- 6.2.13 The original 16000 tonne per annum feedstock volume was identified as generating 3.4 'external movements per day' (assuming a 6 day week). This was considered acceptable in the context of the local highway network. Taking the same 'worst case' approach the proposed 22000 tpa would result in 4.7 'external movements' per day (assuming a 6 day week). However, the majority of farm derived feedstock is brought to the farm via the local roads and internal farm tracks and delivered directly from the farm to the AD facility. In a 'no AD facility' scenario this traffic would make the same journey to the farm and then the produce would be exported onto the primary road network.
- 6.2.14 Assuming a 'worst case' 50:50 split between farm derived and imported feedstock then 50% of the 22000 tpa would be on the primary road network (i.e. 11000 tpa) which equates to 3.2 movements per day (6 day week). Therefore, the applicant advises that even with the introduction of the maximum 11000tpa of imported feedstock there is still a nett reduction of traffic on the primary road network compared to the 'no AD facility' scenario.
- 6.2.15 Regarding export of digestate the existing consent envisaged the production of 13600 tpa of digestate (i.e. based on 17000tpa of feedstock) yielding 10,890tpa liquid and 813tpa of fibre. This equates to 735 movements per annum which over the 7 months comprising the 2 digestate spreading windows averages 4.3 external movements per day. The 22000tpa increases this to 5.6 external movements per day.
- 6.2.16 The applicant advises that the movements of digestate derived fertiliser are direct replacements for movements of farm yard manure and artificial fertilisers which would apply in the 'no AD facility' scenario. As such, the applicant concludes that the use of digestate derived fertilisers has a neutral effect when compared to the 'no AD facility' scenario and a nett reduction in traffic on the primary road network when artificial fertilisers are used.
- 6.2.17 The Council's highway advisor WSP has advised that the figures submitted indicate that the increase in tonnage will equate to a worst-case scenario of a further 1.3 vehicle movements per day and a highway objection would therefore be unsustainable.

7.0 CONCLUSION

- 7.1 The application has attracted objections from local residents on the grounds principally of odour and traffic and Cleobury Mortimer Town Council has requested further reassurance in relation to these matters.
- 7.2 The application must be assessed in the context of the existing permission for a 17,0000 tonne per annum on farm AD facility and having regard to the advice of statutory consultees. The Environment Agency has not objected and has confirmed that odour management is being actively considered under the Environmental Permitting system. The existing permit already allows for the currently proposed feedstock tonnage without the need for modification.
- 7.3 Whilst the Government advises against the duplication of controls in different regulatory regimes odour also remains a material land use issue and Environmental Permit controls

are tightly limited to the consented area. It is appropriate therefore for some additional planning controls to be recommended in Appendix 1 in order to address the concerns which have been raised. Subject to this it is not considered that the additional 25% of feedstock proposed under the current application would result in new issues which were sufficient in their own right to justify planning refusal.

- 7.4 The concern of some local residents in relation to traffic are noted. However, the Council's highway advisor has not objected and the applicant has indicated that the level of vehicle movements generated by the facility is less than that which could potentially be generated in a non-AD scenario. Notwithstanding this, an advisory note advocating the adoption of a voluntary traffic management code has been recommended in Appendix 1.
- 7.5 In terms of concerns expressed about night time noise from the gas engine this element of the facility is not proposed to change. However, a night time noise monitoring condition has been recommended in Appendix 1 to ensure that the facility remains compliant with the existing night time noise limit.
- 7.3 The NPPF requires that applications for renewable energy should be approved if the impacts are, or can be made, acceptable (s98). It is concluded on balance that the proposals are capable of being accepted in relation to relevant development plan policies, guidance and other local considerations. This is having regard to the detailed planning controls listed in Appendix 1 which would be supplemented by the controls environmental permitting regime.

8. RISK MANAGEMENT AND OPPORTUNITIES APPRAISAL

8.1 Risk Management

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

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

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

8.2 Human Rights

8.2.1 Article 8 give 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

8.3.1 The concern of planning law is to regulate the use of land in the interests of the public at large, rather than those of any particular group. Equality will be one of a number of 'relevant considerations' that need to be weighed in Planning Committee members' minds under section 70(2) of the Town and Country Planning Act 1970.

8.4 Financial Implications

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

9. BACKGROUND

RELEVANT PLANNING POLICIES

Central Government Guidance:

9.1 National Planning Policy Framework (NPPF) (DCLG – July 2011)

9.1.1 The National Planning Policy Framework (NPPF) established a presumption in favour of sustainable development. The Government's objective is that planning should support the transition to a low carbon economy in a changing climate, for instance, by the development of renewable energy. To help increase the use and supply of renewable and low-carbon energy, local planning authorities should recognise the responsibility on all communities to contribute to energy generation from renewable or low-carbon sources. They should:

- have a positive strategy to promote energy from renewable and low-carbon sources, including deep geothermal energy;
- design their policies to maximise renewable and low-carbon energy development while ensuring that adverse impacts are addressed satisfactorily;
- consider identifying suitable areas for renewable and low-carbon energy sources, and supporting infrastructure, where this would help secure the development of such sources;
- support community-led initiatives for renewable and low carbon energy, including developments outside such areas being taken forward through neighbourhood planning; and
- identify opportunities where development can draw its energy supply from decentralised, renewable or low carbon energy supply systems and for co-locating potential heat customers and suppliers (s97).

9.1.2 When determining planning applications, local planning authorities should apply the presumption in favour of sustainable development and:

- not require applicants for energy development to demonstrate the overall need for renewable or low-carbon energy and also recognise that even small-scale projects provide a valuable contribution to cutting greenhouse gas emissions; and
- approve the application if its impacts are (or can be made) acceptable. Once opportunity areas for renewable and low-carbon energy have been mapped in plans, local planning authorities should also expect subsequent applications for commercial scale projects outside these areas to demonstrate that the proposed location meets the criteria used in identifying opportunity areas (s98).

Special tests apply however for development affecting National Parks and AONB's and such areas should be afforded the strongest protection. Planning permission should be refused for major developments in these designated areas except in exceptional circumstances and where it can be demonstrated they are in the public interest.

9.2 Core Strategy:

9.2.1 The Shropshire Core Strategy sets out strategic objectives including:

- To rebalance rural communities through the delivery of local housing and employment opportunities (objective 3);
- To promote sustainable economic development and growth (objective 6);
- To support the development of sustainable tourism, rural enterprise, broadband connectivity, diversification of the rural economy, and the continued importance of farming and agriculture (objective 7);
- To support the improvement of Shropshire's transport system (objective 8);
- To promote a low carbon Shropshire (objective 9) delivering development which mitigates, and adapts to, the effects of climate change, including flood risk, by promoting more responsible transport and travel choices, more efficient use of energy and resources, the generation of energy from renewable sources, and effective and sustainable waste management.

9.2.2 Core Strategy policies of relevance to the current proposals include:

- CS5: Countryside and Green Belt;
- CS6: Sustainable Design and Development Principles;
- CS13: Economic Development, Enterprise and Employment;
- CS14: Managed release of Employment Land
- CS16: Tourism, Culture and Leisure
- CS17: Environmental Networks
- CS18: Sustainable Water Management

9.2.3 Site Management and Allocation of Development Document (SAMDEV) –

- MD2 – Promoting sustainable design;
- MD7 – Managing development in the countryside (seeks to protect heritage, landscape and biodiversity assets);
- MD9 – Safeguarding and improving employment investment (includes seeking to protect existing employment sites in rural areas);
- MD12 – Protecting and enhancing Shropshire's natural and historic environment.

10. RELEVANT PLANNING AND SITE HISTORY:

- PREAPP/09/00337 Wind Turbine proposal PRRQD 19th August 2010
- 09/01290/FUL Erection of 11kw wind turbine 18.3m above ground level mounted on free standing tower with dual blade rotor with diameter of 13m GRANT 25th August 2009
- 10/01146/DIS Discharge of Condition 3 of Planning Permission 09/01290/FUL DISAPP 22nd April 2010
- 14/01487/AGR Agricultural Building for Storage PNR 1st May 2014
- 16/00984/DIS Discharge of Conditions 5 (Construction Management Plan), 15 (External Materials), 18a (Drainage), 19a (External Lighting) and 22 (Landscaping) attached to Planning Permission 15/02626/MAW DISAPP 14th September 2016
- 17/04589/AGR Proposed roads for agricultural purpose PNR 11th October 2017
- 17/06090/FUL Change of use of farm office to a dwelling GRANT 27th July 2018
- 19/03637/VAR Variation of condition no.8a (max.tonnage of materials imported) pursuant of 15/02626/MAW to allow for an increase in tonnage per annum PDE
- SS/1/08/21206/F Erection of a 7.5 metre windcharger and associated solar panel. PERCON 24th November 2008
- SS/1/07/19991/F Erection of an agricultural building (for storage) (Delegated matter) PERCON 26th October 2007
- SS/1/7448/P/ Erection of an agricultural building for lambing and machinery PERCON 16th January 1997
- SS/1/6331/K/ Erection of a fodder store/straw store PERCON 9th January 1996
- SS/1/4877/K/ Erection of an agricultural storage building. PERCON 9th August 1994
- SS/1/3589/K/ Construction of a farm pond and erection of a grain store PERCON 10th June 1993
- SS/1/598/P/ Retention of mobile home PERCON 27th July 1990
- SS/1/8691/P/ Use of building for light industrial use (B1) PERCON 14th April 1998
- SS/1988/321/P/ Retention of mobile home. (Renewal of 86/144/P). PERCON 13th June 1988
- SS/1984/649/P/ Erection of a general purpose agricultural building. PERCON 16th January 1985
- SS/1986/144/P/ Use of land for the stationing of a mobile home. PERCON 9th May 1986
- SS/1982/324/P/ Erection of an agricultural building. PERCON 12th August 1982
- SS/1984/265/P/ Erection of a grain store. PERCON 5th June 1984
- SS/1975/308/P/ Erection of an agricultural building and alterations to existing vehicular access. PERCON 25th February 1976
- SS/1/01/12357/F Change of use agricultural building to offices (B1), change of use of domestic/agricultural curtilage to commercial, and erection of a shed. PERCON 2nd August 2001
- SS/1/01/12556/NT Erection of an agricultural building (for the maintenance of agricultural equipment). PERCON 10th September 2001
- SS/1/99/009934/NT Erection of an agricultural building. NOOBJ 18th May 1999
- 15/02626/MAW Installation of a 800kW Agricultural Anaerobic Digester Plant GRANT 17th August 2015
- 19/03637/VAR Variation of condition no.8a (max. tonnage of materials imported) pursuant of 15/02626/MAW to allow for an increase in tonnage per annum PDE

List of Background Papers: Planning application references 19/03637/VAR, 15/02626/MAW and associated location plan and documents

Cabinet Member (Portfolio Holder) Cllr G. Butler

Local Member: Cllr Madge Sheinton, Cllr Gwilym Butler (Cleobury Mortimer)

Appendices: Appendix 1 – Conditions

APPENDIX 1.

Conditions

Condition 8a of permission reference xxx is hereby varied to read:

- 8a The maximum tonnage of materials imported to the Site in any calendar year shall not exceed 22,000 tonnes. For the avoidance of doubt a calendar year shall comprise the period between 1st January and 31st December

Reason: To define the permitted tonnages at the facility.

The following conditions shall also apply.

COMMENCEMENT OF DEVELOPMENT

- 1a. The variation hereby approved shall be deemed to have commenced beginning with the date of this permission.

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

DEFINITION OF SITE AND DEVELOPMENT

2. This planning permission shall only relate to the area edged red on the approved planning application boundary plan accompanying planning application reference 15/02626/MAW (drawing number SA19489/01) hereinafter referred to as "the Site".

Reason: To define the area to which this planning permission relates.

3. Except as otherwise provided in the conditions attached to this permission the operations and uses hereby permitted shall be carried out strictly in accordance with the approved scheme comprising permission reference 15/02626/MAW as varied by this permission and by non-material amendment permission reference 17/02404/AMP. For the avoidance of doubt the details approved under permission reference 15/02626/MAW comprise:-

- i. The application form dated 12th June 2014 and the accompanying information including:
 - Planning Statement (Berrys);
 - Flood Risk Assessment;
 - Odour Management Plan;
 - Environmental Permit Compliance;
 - Extended Phase 1 Assessment, Pearce Environment.

- ii. The permitted drawings accompanying the planning application. For the avoidance of doubt these include:
 - Drawing no: SA19489/01 – Location plan;
 - Drawing no: SA19489/02 – Site plan;
 - Drawing no: SA19489/03 – North East Elevation;
 - Drawing no: SA19489/06 - North West Elevation;
 - Drawing no: SA19489/04 - South East Elevation;
 - Drawing no: SA19489/05 – South East Elevation;
 - Drawing no: SA19489 07 - Land Farmed.

Reason: To define the permitted development.

TRAFFIC AND ACCESS

4. The sole means of access to the site shall be as shown on the approved site plan (plan reference SA23176/01).

Reason: In the interests of highway safety.

5. *Notes:*
 - i. *The Construction Management Plan required under condition 5 of permission reference 15/02626/MAW was approved under discharge of conditions reference 16/00984/DIS.*

ii. The applicant is encouraged to adopt a voluntary traffic management plan including implementing a one way system where appropriate during more intensive periods of HGV activity at the AD site to limit the potential for adverse effects on the public highway.

6. The site access, internal circulation areas and secondary access road shall be cleaned as necessary with a tractor mounted brush or other similar device in order to prevent the trafficking of mud onto the public highway.

Reason: In the interests of highway safety.

USE OF THE FACILITY AND CONTROL OF TONNAGES

7. The principal uses of the Site shall be restricted to:
 - i. the anaerobic digestion process and the associated receipt, handling and storage of agricultural wastes and crop products;

- ii. generation of electricity and heat and other ancillary operations associated with the above activities.

Reason: To define the type and sources of materials permitted to be managed and handled at the Site in accordance with the approved scheme, in the interests of general amenity and to protect surface and groundwater from pollution.

8a. *Note: Condition 8a has been amended to provide an increase in the annual feedstock tonnage which can be imported to the Ad facility from 17,000 to 22,000 tonnes per annum.*

- b. The Site operator shall maintain a record of the tonnage of materials including energy crops and agricultural wastes delivered to the Site and the numbers of associated HGVs and tractor and trailer loads. The record shall be made available to the Local Planning Authority upon prior written request.

Reason: To ensure that the development remains within the general levels of activity specified in the planning application in the interests of highway safety and general amenity whilst having regard to the fact that different potential feedstocks may have different calorific values (8a). To facilitate monitoring of tonnages imported to the anaerobic digestion facility by the Local Planning Authority (8b).

NOISE

9a. Noise from the operation of plant in the engine room (together with noise from system pumps, and from any other associated plant) shall be attenuated to achieve a calculated level which does not exceed 5 decibels (dB(A)) above the night time background noise level outside the nearest privately occupied noise sensitive property.

- b. The applicant shall provide details of noise monitoring to ensure compliance with condition 9a.

Reason: To protect the amenity of the occupiers of nearby properties.

10a. Notwithstanding condition 10a and b, the following noise attenuation measures shall be applied during operation of the site:

- i. All vehicles and mechanical plant employed at the Site shall be fitted with effective exhaust silencers which shall be maintained in good efficient working order.
- ii. Machines in intermittent use shall be shut down or throttled down in the intervening periods when not in use or throttled down to a minimum.
- iv. All ancillary plant such as generators, compressors and pumps shall be positioned so as to cause minimum noise disturbance;

- b. All fixed and mobile plant based at and operating within the Site which are required to be fitted with reversing alarms shall be fitted with attenuated reversing alarms.

Reason: To minimise the possibility of adverse noise impact from Site operations at the closest receptor locations, including properties adjacent to the access from the public highway.

ODOUR AND AIR EMISSIONS

*New condition

- 11a. Subject to Condition 11b odour shall be controlled in accordance with the approved Odour Management Plan accompanying the application and in accordance with the following measures:
- i. Management and containment of stored feedstock materials to reduce odour emissions;
 - ii. Ensuring that all site personnel recognise the importance of odour minimisation and that relevant personnel are aware of how to control odour emissions;
 - iii. Provision to cover the digestate storage tank if necessary in order to further reduce the potential for odour emission.

- b. The approved odour management plan shall be updated to take full account of odour from the spreading of digestate exported from the site, including timings for despatch of digestate and assessment of odour of dispatched digestate to ensure that the amenity of nearby residential property is protected.

Note: The applicant is encouraged to adopt a voluntary digestate spreading plan in support of this condition which amongst other measures secures rapid incorporation of digestate into the soil horizon by ploughing in or injection, with particular emphasis on receiving fields within 250m of private residential property.

- c. A scheme providing for the digestate tank to be covered within an agreed timescale shall be submitted for the approval of the Local Planning Authority within one month of the date of this permission. The digestate tank cover shall be installed in accordance with the approved details.
- d. In the event that an odour complaint is received and is subsequently validated by the Local Planning Authority in consultation with Shropshire Council Regulatory Services and / or the Environment Agency then the AD site operator shall implement a formal investigation of the complaint within 3 working days of notification to this effect by the Local Planning Authority. The scheme shall make provision for mitigation measures to be implemented within an agreed timescale where appropriate. Any schemes submitted under this condition shall be implemented in accordance with the approved details.

Reason: To reduce the impact on local amenities of odour arising from Site operations.

12. All yard surfaces and circulation areas within the Site shall be swept as necessary to remove mud / debris and water shall be applied to such areas as appropriate during dry conditions in order to prevent the generation of dust.

Reason: To reduce the impact on local amenities and air quality of dust arising from Site operations.

PEST / VERMIN CONTROL

- 13a. Pest and vermin control shall be managed in accordance with the scheme approved under discharge of condition approval reference 16/00984/DIS.

Reason: To ensure that appropriate measures are in place to control the possible effects of pests and vermin.

HOURS OF OPERATION

- 14a. With the exception of use of the generator and normal continuous running of the anaerobic digestion process no operations hereby permitted shall be undertaken at the Site, except during the following hours:

Mondays to Fridays	07.00 to 21.00 hours
Saturdays:	07.00 to 21.00 hours
Sundays / Bank Holidays	08.30 to 18.30 hours

- b. Notwithstanding Condition 14a, provision shall apply for extended working for not more than 10 periods in any calendar year in order to cater for exceptional circumstances. During periods of extended working no operations hereby permitted shall be undertaken at the Site, except within the hours specified in Condition 14a above and during the following hours:

Mondays to Fridays	05.00 to 23.00 hours
Saturdays:	05.00 to 23.00 hours
Sundays / Bank Holidays	06.30 to 20.00 hours

Records of extended working under this condition shall be maintained and shall be provided to the Local Planning Authority upon request.

Note: Wherever possible, the Local Planning Authority should be notified in advance of any proposed periods of extended working under the terms of Condition 14b.

BUILDINGS, STRUCTURES AND PLANT

15. *Note: The detailed specifications and surface treatments for the anaerobic digester facility required under Condition 15 of permission reference 15/02626/MAW were approved under details submitted pursuant to discharge of conditions application reference 16/00984/DIS.*

16. All buildings, hard surfaces and fencing within and on the boundaries of the Site shall be maintained in an orderly state and fit for purpose, including maintenance of even, pothole free running surfaces in circulation areas for vehicles and plant.

Reason: To ensure that the Site is maintained to an acceptable standard in the interests of health and safety and general amenity.

GENERAL PERMITTED DEVELOPMENT ORDER

17. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 2015 (or any order revoking and re-enacting that Order with or without modification), no buildings, demountable structures, fixed plant, or structures of the nature of buildings or fixed plant, and no fence or soil mound, in addition to those shown on the approved plans listed in condition 3 above, shall be erected at the Site unless approval in writing for their details and specification has first been obtained from the Local Planning Authority.

Reason: To maintain control over the appearance of the site and ensure that the development is in accordance with the permitted details.

POLLUTION CONTROL AND DRAINAGE

18. *Note: The detailed specifications of the proposed soakaways for the anaerobic digester facility required under Condition 18a of permission reference 15/02626/MAW were approved under details submitted pursuant to discharge of conditions application reference 16/00984/DIS.*

Notes:

- i. *All concrete areas where feedstock and digestate are handled should have a system in place to allow for water that may be contaminated to be diverted away from the clean water disposal route in to the dirty water system.*
- ii. *Any contaminated/dirty wash water should be collected via impermeable surfaces and disposed of to an appropriate system. The applicant should incorporate measures to prevent the transmission of oils, fuel, or other hazardous materials from entering the AD process. For example, a separate sealed drainage system for areas likely to be contaminated with any wheel washing or oils etc. should be installed, perhaps with a sump system for disposal elsewhere in the absence of a mains foul sewer connection.*
- iii. *As part of the sustainable urban drainage scheme ('SUDS'), the applicant is encouraged to employ the following measures:*
 - *Permeable paving;*
 - *Rainwater harvesting system;*
 - *Greywater recycling system;*
 - *Green roofs;*
 - *Water Butts.*

LIGHTING

- 19a. *Note: The lighting details for the anaerobic digester facility required under Condition 19a of permission reference 15/02626/MAW were approved under details submitted pursuant to discharge of conditions application reference 16/00984/DIS.*

ECOLOGY

20. *Note: A bat box is required to be installed at the site under Condition 20 of permission reference 15/02626/MAW.*
21. *Note: Work to construct the site was required to be undertaken in strict accordance with the Reasonable Avoidance Measures detailed in the 'Extended Phase 1 Survey, Proposed AD Plant, Withypool Farm, Kidderminster', June 2015, by Pearce Environment Ltd.*
22. *Note: The landscaping scheme for the anaerobic digester facility required under Condition 22a of permission reference 15/02626/MAW was approved under details submitted pursuant to discharge of conditions application reference 16/00984/DIS.*

CESSATION OF USE

- 23a. Not less than 2 weeks prior notice in writing shall be provided to the Local Planning Authority of the permanent cessation date for the operations hereby approved, or for any temporary cessation of operations for in excess of one month.
- b. Not less than 6 months prior to the planned date for any permanent decommissioning of the development hereby approved the operator shall submit proposals for decommissioning of the development within an agreed timescale for the approval of the Local Planning Authority. Such plans shall make provision for leaving the site in a condition suitable for future development, with provision to remove all buildings, hardstandings and structures which are not required in connection with the Site's subsequent afteruse.

Reason: To ensure that the Site is left in a tidy condition capable of a beneficial afteruse in the event of any permanent decommissioning of the development hereby approved.



<u>Committee and date</u>
Southern Planning Committee
28 July 2020

Development Management Report

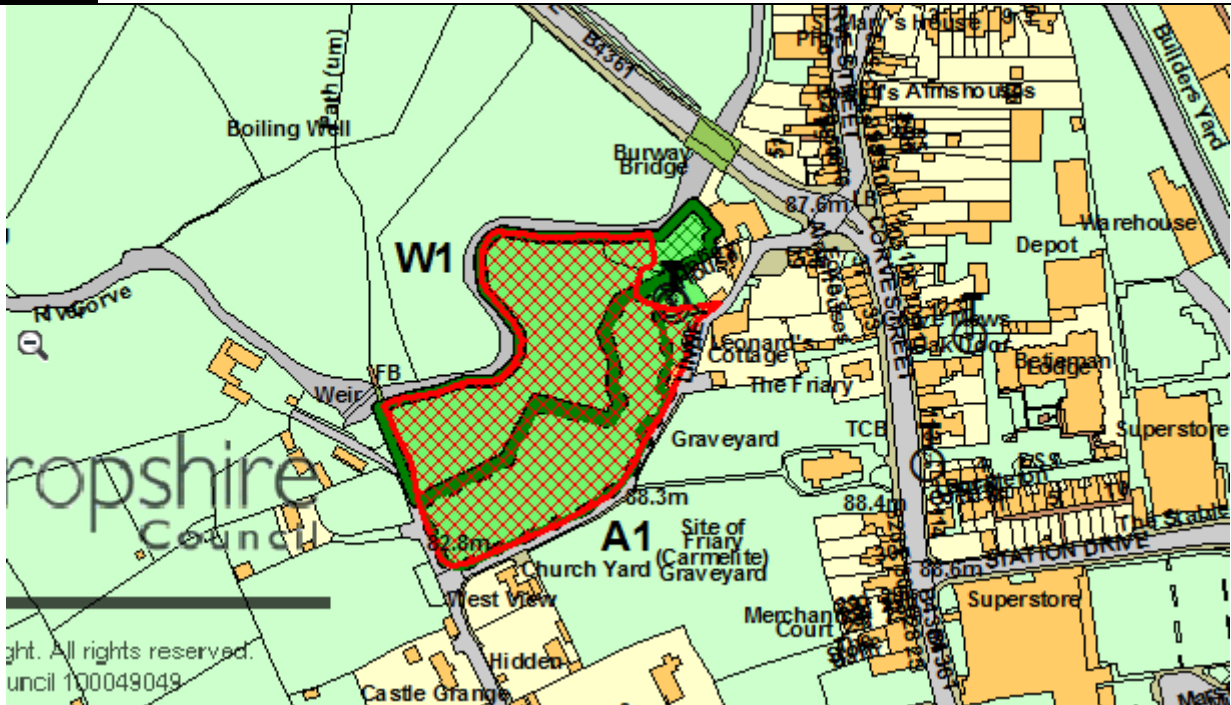
Responsible Officer: Tim Rogers

email: tim.rogers@shropshire.gov.uk Tel: 01743 258773 Fax: 01743 252619

Summary of Application

<u>Application Number:</u> 19/00826/FUL	<u>Parish:</u>	Ludlow
<u>Proposal:</u> Erection of 8 No Dwellings with Car Shelters, Reprofilng of Ground; Restoration of Stone Boundary Wall and Creation of 2 No Vehicular Access Points.		
<u>Site Address:</u> Land Adjacent Linney House, The Linney, Ludlow		
<u>Applicant:</u> Linney House Developments		
<u>Case Officer:</u> Andrew Sierakowski	<u>email:</u> planning.southern@shropshire.gov.uk	

Grid Ref: 350987 - 275121



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Recommendation:- That the Committee indicate to the Secretary of State that it would have been minded to refuse the application for the reasons set out below:

Recommended Reason for Refusal

1. That the proposed development comprising the re-profiling of the ground, erection of eight detached houses with car shelters, the creation of two new access points and the restoration of the stone boundary wall along The Linney, on land adjacent Linney House at The Linney, Ludlow, is not acceptable in terms of the principle of the development as it is located outside the development boundary for Ludlow and is therefore contrary to Core Strategy Policy CS5 and SAMDev Policies MD7a and S10;
2. That the latest figures set out in the Council's Five-Year Housing Land Supply Statement published in March 2020 confirms that the number of completions and Planning Permissions or Prior Approvals is so substantially over the Housing Guideline figure for Ludlow, that there is no case for invoking paragraph 3 of SAMDev Policy MD3; and
3. That by virtue of the significant level of harm that would be caused by the scheme as a result of the loss of the trees and woodland on the site and the resulting in harm to the natural assets of the site, harm to the Environmental Network and the less than substantial harm to the Ludlow Conservation Area, without adequate mitigation, compensation or enhancement, which significantly outweighs the benefits of the scheme, it cannot be considered to acceptable and therefore would be contrary to Core Strategy Policies CS6, CS17 and SAMDev Policies MD2, MD12 and MD13 and the NPPF. There are no other material considerations that lead to the view that the proposed eight house scheme would otherwise offer betterment over the approved three house scheme, that would justify approval of the application.

REPORT

1.0 THE PROPOSAL

- 1.1 This is an application, submitted by Linney House Developments Limited, for the re-profiling of ground, erection of eight detached houses with car shelters, the creation of two new access points and the restoration of the stone boundary wall, on land adjacent to Linney House, at The Linney, Ludlow. The application was submitted in February 2019, and has raised a number of significant issues, which were the subject of extensive discussions with the applicant throughout 2019, resulting the submission of amended reduced scheme for four houses (Planning Application Ref. 19/00519/FUL), in December 2019. It had been anticipated that the applicant would withdraw this application but has instead opted to submit an appeal against non-determination pending determination of the more recent application for the four house scheme. This is due to be presented to the Committee shortly. The appeal is being reported to the Committee to seek its guidance on how it would have determined the application, had the appeal not been submitted, in order to guide the response to be set out the Council's Statement of Case. The appeal is accompanied by a claim for costs.
- 1.2 The application is essentially a substantially altered proposal for residential development on the site, that was first approved in 2012 under Planning Permission Ref. 12/02275/FUL, which was subsequently renewed under Planning Permission Ref. 17/00230/FUL in 2017. This latter permission has been implemented although only

through the undertaking of minimal works to commence the development, and the site remains essentially undeveloped.

- 1.3 The original consents were for a three house, traditionally designed scheme, whereas the current application seeks to increase this to eight dwellings of a more contemporary design. Each dwelling would be either a 3, 4 or 5 bedroom detached house, comprising e a one and half/two storey structure, made up of up to four elements, with largely asymmetrical mono-pitched roofs. Materials would be Ludlow brick, natural stone, natural timber and welsh slate, while the fenestration would comprise generally vertically proportioned, glazed panels. The roofs would include solar panels and/or solar photovoltaics. The intention is that the houses, rather than appearing as single traditional blocks are broken up into a series of smaller elements to give the appearance, the application states, of “a random collection of buildings, on different levels with a highly articulated roofscape, glimpsed through trees”. Double car shelters would be provided on the three of the plots, Plots, 1, 2 and 8. These would be constructed with an oak timber frame and proprietary flat “green roof”, with two car parking spaces per plot.
- 1.4 The house plots take up approximately half to two-thirds of the site, so that each plot extends on average to approximately 0.08ha, although the individual plot sizes vary significantly. The Design and Access Statement submitted with the application stresses that the design and layout of the scheme is intended to integrate the development into its setting. It states that each house has been positioned to allow views through, and across, the site, with the bulk of each building reduced by use of a divided articulated plan form, with an interconnecting mono-pitch roof design. In addition, the highest point on each house being kept as low as possible by having first floor bedrooms in the point of the roof slope. On houses 1,2 & 8, the most sensitive to views onto the site from The Linney and across the meadow, the roof lines would diminish to follow the site topography.
- 1.5 The scheme includes a landscaping plan that involves the provision of landscaped domestic gardens and the creation of a wooded riverside with newly planted trees, low bush areas and planting designed to encourage wildlife. This area is described in the application as being an amenity space for all the houses and is intended to be a “wild” buffer to avoid domestic garden paraphernalia appearing along the river. This included an outdoor seating space and firepit on the initially submitted plan, although an amended plan was submitted. with this deleted, shortly before the appeal was lodged, together with an updated Ecological Impact Assessment The application states that a band of trees outside the individual gardens is to be planted along The Linney and at each of the two entrances to the site, is intended to mature to recreate the green and leafy feel of the Linney today and provide a long term woodland setting for the houses.
- 1.6 Rainwater would be dispersed of via an attenuated scheme with underground storage and controlled release restricting outflow from site. Permeable paving will be used in accordance with SuDS requirements and areas of grass and planting would form part of the attenuation scheme.
- 1.7 As part of the preparatory works it is proposed to reprofile the site to reinstate what the application states was the original profile, which was altered as a result of quarrying activities, to raise the finish floor levels above the flood level. This would comprise terraces at four levels across the site, with ramps between them. Currently, there is a steeply sloping bank that extends from Plot 2 where there is a hollow, up to Plot 8. It is proposed dig out and remove soils along the southern boundary of the site adjacent to

The Linney which are banked up against the stone boundary wall to a depth of up to approximately 1.3m higher than the road surface. The area to be filled would be by a depth of up to 4m although with significant variation, including some reduction in ground levels in places across the eight house plots to create a series of level terraces. The lowest on Plots 1 and 2 would be constructed at 84.50m against an existing level of approximately 82.40m and the highest on Plots 5,6 and 7 at a level of 87.75m against an existing level of Approximately 88.20m.

- 1.8 The reprofiling and redevelopment works will necessitate the felling of almost all of the trees on the higher part of the site adjacent to The Linney to facilitate the ground levelling works and the repair of the boundary wall, with only the large Sycamore tree and Ash tree immediately to the rear of Linney House being retained. On completion of the ground works and construction works, it is intended to re-landscape the upper part of the site, with mixed woodland. By contrast a substantial proportion of the existing woodland immediately adjacent to the River Corve is to be retained and supplemented with largely native species woodland planting.
- 1.9 In addition, it is proposed to restore the stone wall long the frontage of The Linney, although as part of the existing access into the rear to Linney House will be widened and the second, wholly new access will be formed towards the western end of the site, so there are two separate accesses, each serving four dwellings, with visibility splays. The site is split in the middle for cars with a pedestrian access between the two levels leading to directly The Linney and aligned to link with the gateway into the St Leonard's Church Yard and the existing path to Corve Street. The application indicates that the central section of the boundary wall adjacent to the bend in The Linney will be taken back to increase visibility around the bend and facilitate the provision of a passing place.
- 1.10 The existing garage and sheds on the site located the south west of Linney House are to be demolished.
- 1.11 The application has been accompanied by an Archaeological Desktop Evaluation and Written Scheme of Investigation Proposal, an Ecological Impact Assessment, a Flood Risk Assessment and Flood Modelling Study, a Flood Plain Storage Assessment, a Heritage Assessment, an Assessment of the Potential for Land Contamination, a Technical Note on the Transport Issues, an Arboricultural Report, a Statement of Tree and Shrub Planting Objectives, a Landscaping Plan and a Landscape and Visual Impact Appraisal.

2.0 SITE LOCATION/DESCRIPTION

- 2.1 The application site comprises an area over 1.1 ha. in size and forms part of what was the garden and curtilage of Linney House, a Grade II listed 18th century house. The Linney forms the southern boundary of the site, while the winding course of the River Corve delineates the northern boundary. The western boundary adjoins a Public Bridleway and Linney House lies to the east. The site is broadly split into two levels, a higher level adjacent to The Linney and a lower lying area adjacent to the river. There is steeply sloping bank in between.
- 2.2 The site lies within the Ludlow Conservation Area and there is a stone boundary wall, which is an important feature running along the length of the boundary with The Linney. The Linney is a narrow, largely single width, lane with a narrow footpath and low kerb

down the south side, enclosed by stone walls on both sides. This makes it difficult for on-coming vehicles to pass. The only place that it briefly broadens out is on a bend approximately half-way along the length of the boundary of the site. This bend coincides with a pedestrian gateway into the St. Leonard's Church Yard with a path leading to Corve Street. Cars can pass at this point, if west bound vehicles mount the pavement immediately adjacent to the gateway.

- 2.3 The site contains a large number of trees which is it understood are partly self-seeded. These previously covered most of the site, although there has also been some felling and clearance works in the last four to five years. Despite this it includes some mature trees within the former garden, on the former terrace sides and along the riverbanks that in recent decades has resulted in it becoming wooded in character, and now appears to make up a distinct block of woodland on the northern edge of the built up area of the town. This is particularly the case when viewed from the higher ground within the town centre including views from the castle, and from Coronation Avenue from across the open ground to the north.
- 2.4 A substantial part of the site along the river to the north and the bridleway to the west falls within in Flood Zone 2 and 3 of the River Corve, on the Environment Agency's Flood Map for Planning.
- 2.5 The site is understood to have been a former mineral extraction site, although there are contradictory statements from the applicant and third parties (relating to the concurrent application for the amended four house scheme) about when mineral extraction ceased, with a statement by the applicant that it remained an extraction site up to the 1980's and from third parties suggesting that mineral extraction ceased by as early as 1930.
- 2.6 The site has an extensive recent planning history, that not only includes Planning Permission Refs. 12/02275/FUL and 17/00230/FUL for the existing consented three house scheme but also a number of associated applications and consents to vary or discharge the conditions attached to the two permissions. These include most recently, Application Ref. 20/00119/DIS, and a subsequent variation application Ref. 20/01127/VAR that has amended the tree protection plan approved under Planning Permission Ref. 17/00230/FUL to enable the phased implementation of that consent. In addition, there is the current Application Ref.19/05519/FUL, for the alternative four house scheme on the site, which remains to be determined.
- 2.7 There is also an extensive history relating to the trees on the site. This history relates to felling that is understood to have been taken place in May 2015 and then again in the winter of 2015-2016, the former having been undertaken without notice being given under s.211 of the Town and Country Planning Act 1990. The latter it is understood was undertaken as pre-commencement works to the implementation of Planning Permission Ref. 12/02275/FUL. The Tree Officer has provided a detailed statement relating to these activities and to the subsequent compensatory planting that has been undertaken. The Tree Officer's advice is that 256 out the total of 401 trees were felled, but that compensatory planting was undertaken which included 100 whips after the initial unlawful felling. Further compensatory planting comprising a block of 96 additional whips as well 87 standard trees, was also agreed following the approval of the extant Planning Permission Ref. 17/00230/FUL, but it is understood that this has not to date been undertaken. It should be noted that the applicant disputes the accuracy the Tree Officer's assessment of the number of trees previously felled. This form substantive basis for the

applicant's claim for costs in the appeal.

- 2.8 The planning history of the site including, the existing consented scheme and the recent history of the felling and subsequent compensatory planting schemes are of importance in relation to this application in that they set a fallback position, that has to be taken into consideration and the environmental baseline against which the current application has to be assessed.
- 2.9 In addition to being located adjacent to Linney House and within the Ludlow Conservation, other nearby heritage assets include 38 and 39 Corve Street, approximately 50m north west of the site, which are Grade II listed, and St. Leonard's Church, approximately 90m to the west of the site, which is also Grade II listed (as St. Leonards Restorations). There are also a significant number of listed buildings in the wider surround area, notably along the length of Corve Street, 100m west of the site and throughout Ludlow town centre, 450m south of the site. Ludlow Castle which is Grade I listed, and a Scheduled Ancient Monument, lies approximately 360m to the south with direct views to the north towards the site.
- 2.10 The River Teme Site of Special Scientific Interest (SSSI) is located 340m to the west. The River Corve runs along the full length of the site before joining the SSSI c.500m downstream. The site is located outside the development boundary for Ludlow.

3.0 REASON FOR COMMITTEE DETERMINATION OF THE APPLICATION

- 3.1 The Committee in this instance are not being asked to determine the application, only to provide an indication of how it might have determined the application, had the current appeal not been submitted (See paragraph 1.1 above).

4.0 COMMUNITY REPRESENTATIONS

- 4.1 Ludlow Town Council: Has offered a neutral comment.

Public Comments

- 4.2 In addition to the comments from Ludlow Town Council there have been fifteen third party representations from twelve local residents and organisations. Of these representations, twelve including two from the Ludlow Conservation Area Advisory Committee and two from the Ludlow Swift Group, offer objections and three, state that they are neutral.
- 4.3 Those that object to the development in summary make the following points:
- That the development would involve a further loss of trees in addition to the loss that has already taken place and that this will result in a loss of natural habitat and erosion of the screening from Coronation Avenue;
 - That the Council Tree Officer's report on the application sets out clearly the extent of the destruction of the once substantial and important habitat as a buffer on the edge of Ludlow, that has already taken place and details the further destruction necessary to build the proposed eight houses. It also highlights the likely requests to remove trees by future residents. The site is part of an important green corridor along the River Corve, that provides screening from Coronation Avenue, should

remain as such, and the already required replanting, enforced;

- That it should be the Council's top priority to preserve and protect established natural corridors for wildlife and the environment;
- That the proposed development will destroy a valuable resource;
- That there appears to be no plan for the retention of a green corridor linking St Leonard's with the River Corve. This shows a disregard for the natural environment and the character of the local area;
- That the development is out of keeping with the character of The Linney, which does not currently have any concentrated multi-home developments;
- That it is not clear what height the boundary wall along The Linney will be rebuilt to; any reduction in height would have adversely impact on the character of the wall;
- That the development will adversely affect the character and appearance of the Ludlow Conservation Area;
- That the development will result in an increase in traffic along The Linney, which is already a narrow and dangerous road; speed reducing measures are required before there is a serious accident or fatality;
- That the development is not affordable housing and is not necessary to meet any identified housing need in Ludlow, with there being several other ongoing developments which fulfil those needs;
- That the development would take place in an area at risk from flooding and would increase the risk of flooding;
- That the stability of the upper part of the site has not been properly assessed;
- That the geological conservation interest of the site has not been acknowledged, and as with the previous applications has been disregarded, when there is considerable historical geological interest in the quarry face that runs through it. This is of intrinsic interest and is a historically important site that should be scientifically examined and recorded if any development works are to be approved; and that
- This application is contrary to National Planning Policy Framework (NPPF) and should be refused in the light of the comments of the Council's officers;

4.4 In addition, the Ludlow Conservation Area Advisory Committee advise that that whilst the Committee is broadly supportive of the application, they have two objections to it. They consider that:

- The palette of walling and roofing materials is acceptable subject the details being conditioned, but they comment that there is no corresponding detail for the external hard surfaces which are also important and should be agreed before planning permission is granted; and that
- The character of the Conservation Area in the vicinity of the site is defined by the sense of enclosure created by the walls on either side of Linney and are concerned that the proposed alterations to the perimeter wall will undermine this character whilst facilitating higher traffic speeds than are possible at present.

4.5 They are in addition concerned that the additional traffic generation would be disproportionately increased as a result of additional through traffic that the improved sightlines and width would encourage. They therefore consider that traffic calming measures, such as speed humps adjacent to the proposed accesses, should be installed, with the boundary walls and planting being retained on their present alignment.

- 4.6 The Ludlow Swift Group ask, if the application is approved, that integral Swift bricks, which will be used by a range of bird species, including Swifts, House Sparrows and Starlings, are included in the development. These bricks should be built into the fabric of buildings, recreating natural cavities found in older properties. They also ask that artificial nest cups for swallows are also provided in suitable locations.
- 4.7 Those expressing neutral comments in summary make the following points:
- That the proposal is better designed than the previously approved plan for three homes and that the application's approach to design is consistent with the Government's recently published National Design Guide, but that the objections from the Council's Conservation, Tree, Ecology and Highways officers are now so significant and in such conflict with the proposed scheme that the application should be considered by the Council's Southern Planning Committee;
 - That the developer should consider reducing the number of houses to allow greater restoration and enhancement of the wooded landscape and a lower impact on the Conservation Area. This may also ease access issues by reducing the number of vehicle movements;
 - That the modern style of the proposed development is welcome and an improvement on the existing the scheme approved under the existing planning permission, but it could be improved further. The proposed scheme is not yet right. Consideration by the Southern Planning Committee would ensure that the right plans are secured for a sensitive location;
 - That the proposed building materials are laudable but the use of Welsh slate, which is not a locally used material may not be appropriate. That it is also not clear where the 'Ludlow brick' will be sourced from, as the last brick to be made in Ludlow was in 1963, when the Fishmore Road brickworks closed. They were also a bright uniform orange colour; and
 - That the widening of Linney as proposed looks sensible, but that the results of the traffic survey results may not be accurate as this was undertaken in July when schools and college were closed. There are also concerns that the straight section of The Linney is already hazardous for pedestrians and cyclists from speeding vehicles which sometimes mount the pavement. In view of the inevitable increase in traffic, a 20mph speed limit should be introduced.

Technical Consultees

- 4.8 Shropshire Council - Affordable Homes: The Affordable Homes Officer has advised that there will be a policy requirement for an affordable housing contribution.
- 4.9 Shropshire Council - Highways: Advise that further Information is required, because insufficient detail of the accesses and the passing place have been submitted with the application. They comment that the application is for eight houses, more than double the number of the existing consented scheme, and that the westerly access has been moved from the existing access point at the south west corner of the site, but without any visibility sightlines having been shown for its proposed location. They advise that adequate visibility sightlines could be achieved from the existing westerly access but not from the proposed westerly access without these being demonstrated. They also comment that the easterly access has been erroneously drawn on the submitted plans.
- 4.10 Notwithstanding these points, the also advise that the widening of The Linney with the

provision of a passing place, will assist drivers having to deal with the pinch-point caused by the narrowing of the road and the bend on it, and that the provision of additional land for this purpose will provide a highway safety benefit. They advise that the owner of the land will need to formerly dedicate the additional land to the Shropshire Council Highways and that further details of the passing place will need to be provided as this has not been dimensioned and construction details provided.

- 4.11 In relation to the footpath link to the St Leonard's churchyard and the western side of Ludlow town centre, they express concern that this has been located so that pedestrians are being brought out into the proposed passing place, just at the point where vehicles could suddenly appear and pull up across the entrance. They advise that pedestrians would need to be protected from this likelihood.
- 4.12 They also comment that the footpath within the site does not follow guidelines for Secure by Design and should be capable of being viewed straight through with no blind bends and no nearby foliage. In addition, they comment that footpath the link between the lower half of the site and the upper half of the site is stepped, and that it does not offer a ramped by-pass for wheelchair/pushchair users or those who are mobility impaired.
- 4.13 More generally they advise that the development will provide an opportunity to improve visibility along The Linney which is currently hindered by the overhanging vegetation.
- 4.14 Shropshire Council - SUDS: Have no objection subject to the inclusion of a condition requiring the submission of a scheme for surface and foul water drainage and the inclusion of informatives relating to the use of soakaways, urban creep, drainage on the highway and compliance with the building regulations.
- 4.15 Shropshire Council - Regulatory Services: Advise that two past potentially contaminative land uses have been identified within the site. These include its use as a timberyard and as a quarry. They also comment that the supporting information included with the planning application refers to use of part of the site as a coal yard, an unofficial dump site (within the former quarry) and the levelling of the top terrace with the deposition of material. They therefore advise that if planning permission is granted, that a condition be included requiring the submission of a site investigation report and if subsequently required, a remediation strategy and that in the event that further contamination is found at any time during construction, that was not previously identified, that it must be reported to the Local Planning Authority, and an investigation and risk assessment undertaken. The condition should also require the completion of measures identified in the approved remediation scheme, and the submission of a verification report that demonstrates the contamination identified has been made safe and no longer qualifies as contaminated land under Part 2A of the Environmental Protection Act 1990, in relation to the intended use of the land.
- 4.16 Shropshire Council - Conservation: Advise that due consideration needs to be given to Sections 66 and Section 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990, the policies contained in Chapter 16 of the NPPF, Core Strategy Policies CS6, and CS17, SAMDev Policies MD2 and MD13, the guidance contained in Planning Practice Guidance and Historic England's Historic Environment Good Practice in Planning Advice Note 2 on Managing Significance in Decision-Taking in the Historic Environment and Advice Note 3 on The Settings of Heritage Assets.

- 4.17 They comment, in relation to the requirements set out in SAMDev Policy MD13 and Paragraph 189 of the NPPF, that the applicant has submitted a Heritage Impact Assessment, which provides their assessment of the effects of the proposed development on the built historic environment. With this in mind they make the following comment:
- 4.18 That in relation to the setting of Linney House, the proposed development would introduce buildings, on Plot No. 8, further to the north, and closer to the listed building than would have been the case under the existing extant planning permission. The Heritage Impact Assessment, they identify, acknowledges that "...some harm [to its significance] may be incurred by the encroachment of development closer to the house...", which is assessed as being less-than-substantial. However, they also comment that the Assessment notes that the design and orientation of the dwelling on Plot No. 8 is intended to minimise visual intrusion and that a sizable garden curtilage, that includes the existing mature trees will be created as a buffer against the development.
- 4.19 They comment that there is a wider point made within the Assessment, that the landform on the site was significantly altered by quarrying activity in the 1960s or early 1970s, which had a negative effect on its significance. Taking this in account, they advise that the proposed development would not result in any additional harm being caused to the significance of the listed building as a result of the effects that the development would have on its setting.
- 4.20 In addition to this, they advise that the other key planning considerations in determining this application is the effect that the development would have on the Conservation Area as a designated heritage asset. Of primary importance in this regard is the strong positive legal duty on the decision taker when determining planning applications, imposed by Section 72(i) of the Planning (Listed Buildings and Conservation Areas) Act 1990, which requires that "...special attention shall be paid to the desirability of preserving or enhancing the character or appearance of that area".
- 4.21 With this in mind they comment that the site currently has a wooded character and that the existing extant planning permission for three dwellings was deemed to preserve the character and appearance of the Conservation Area through a landscaping scheme that it was considered would maintain the wooded character of the site.
- 4.22 The current application, they comment, proposes five additional dwellings, i.e. a total of eight dwellings, but of a substantially different design to the extant scheme, which is described in the Heritage Impact Assessment as being of "...a contemporary "Nordic woodland" style.". They comment that the units will utilise a mixed palette of traditional building materials comprising brick, stone and timber and slate and plain tile roofs, which is intended to reflect those within the wider town and surrounding area. In addition, a mixture of pitched, offset and mono roofs will be used to further break-up the form and massing of the dwellings, whilst significant amounts of glazing are intended to provide further interest, providing internal views that integrate the interior and exterior spaces. A mixed palette of hard landscaping materials, comprising gravel and fired clay pavements, is proposed, whilst a soft landscaping scheme has also been submitted. The Assessment, they comment, states that the "landscaping is integral to the design concept serving as a foil to the buildings and creating a soft visual screen with intermittent glimpses of the houses from the public areas beyond."

- 4.23 In terms of the architectural design, the Conservation Officer advises that they welcome the contemporary approach of the scheme and consider that the mixture of forms, layouts and materials will achieve the aim of breaking up the massing of each unit. Likewise, they consider that it would in principle also enable the built form of the development to be better integrated with the reprofiled landform. As such, they comment that it has the potential to provide a greater level of architectural interest within the Conservation Area than the previously approved scheme would otherwise provide. They advise that appropriate planning conditions could be included in the planning permission requiring prior approval of all external materials to ensure the design objective behind the scheme are fully realised.
- 4.24 They further comment that the wall adjacent to The Linney on the southern site boundary, which is currently in a poor state of repair, is acknowledged by the applicant to represent a key element of this part of the Conservation Area. They note that, as with the extant planning permission, two vehicular accesses through the wall are proposed, albeit in different locations, from those approved under the previous scheme. In addition, they observe, that a pedestrian access is proposed roughly midway along the boundary in order to enable residents and visitors to access the St Leonard's churchyard and the town centre on foot. At the same location, the applicant is also proposing to realign the wall to offer some highway improvements, whilst repairing the remaining sections of the existing wall. They comment that the Heritage Impact Assessment argues that these repairs would in principle provide benefit to the wider Conservation Area by ensuring the positive contribution the wall makes to its character and appearance is sustained in the longer term. They advise in the light of the comments submitted by the Highway Authority, that the concerns raised (as set out above) need to be resolved before the Conservation Officer can advise on whether the proposed works to the wall, access and footpath are acceptable. They do however advise that if the issues raised by the Highway Authority can be resolved, that a condition could be attached to the permission to ensure that the new accesses and the realigned sections of the boundary wall are contrasted, and the repairs undertaken, in a manner appropriate to the Conservation Area.
- 4.25 Notwithstanding these positive points, they advise, as the Heritage Impact Assessment acknowledges, that the landscaping scheme for the proposed development is of fundamental importance in terms of maintaining the wooded character of the site, thus allowing the Council (and now under the appeal, the Secretary of State), as the decision taker, to establish that the tests set out in s72 of Planning (Listed Buildings and Conservation Areas) Act 1990 are met. In this respect, they concur with the comments of the Tree Officer (set out below) that the development suffers from fundamental shortcomings and that a revision to the site layout, including a reduction in the proposed number of houses is necessary in order to ensure that the landscaping scheme is viable in the medium to long term. This, the Conservation Officer advises will be necessary before the scheme can be considered to either preserve or enhance the character and appearance of the Conservation Area. The submitted scheme they advise would give rise to less than substantial harm to its significance as a designated heritage asset, contrary to Core Strategy Policies CS6 and CS17, SAMDev Policies MD2 and MD13 and Paragraphs 193, 194, 196 and 200 of the NPPF, and that if such amendments are not made, they would advise that the application be refused.
- 4.26 Shropshire Council - Archaeology: Advise that the site lies adjacent to the former Carmelite Friary, the excavated remains of which date back to the 12th century, a post

medieval graveyard, the Medieval street system, and former open spaces east and west of The Linney. They further advise that the documentary evidence indicates that the land on either side of The Linney was laid out in burgage plots in the 13th century and that ridge and furrow cultivation has been recorded in the area, which was enclosed by the end of the medieval period. They comment that although there is no evidence that the area was occupied in the medieval period, it is possible that the medieval plots were used for various crafts and industrial activities as well as agriculture. Medieval occupation activity has been identified west of The Linney, comprising at least two building structures with a possible domestic plot occupying the street frontage and an ancillary structure to the rear, of later 12th century to the mid-14th century date. Other significant archaeological discoveries include medieval pottery and other artefacts at Linney House.

- 4.27 They therefore advise that the site is deemed to have some archaeological potential and that any below ground archaeological remains are likely to be affected by the construction of the development, associated services, new vehicular accesses and the landscaping of the site.
- 4.28 They comment that an archaeological desk-based assessment has been produced in support of the application. This assessment recommends that the proposed development be accompanied by an archaeological watching brief (in line with recommendations made in relation to the previous permissions). They concur with this recommendation and comment that a written scheme of investigation (WSI) for a programme of archaeological work produced and approved for a previous application for the site, has been resubmitted as part of the current application.
- 4.29 In view of the above, and in relation to Paragraph 199 of the NPPF and Policy MD13 of the SAMDev, they advise that a programme of archaeological work be made a condition of any planning permission for the proposed development.
- 4.30 Shropshire Council - Ecology: Advise that further information is required to show how Core Strategy Policy CS17 and SAMDev Policy MD12 have been complied with. They comment that the submitted ecological survey is out of date and that an updated survey (except in relation to bats in buildings) is required to determine if ecological features on the site have changed since 2016. (This was submitted just before the appeal was lodged).
- 4.31 In particular, they advise that additional information is required for otters, badgers and the quality of current habitats on site. In the absence of this up to date information they recommend refusal since it is not possible to conclude that the proposal will not cause an offence under The Conservation of Habitats and Species Regulations 2017, the Wildlife and Countryside Act 1981 and the Badgers Act 1992.
- 4.32 They additionally comment that the site lies completely within the Environmental Network due to its proximity to the River Corve and the semi-natural tree/scrub vegetation it supports. Aerial photos show that this is the only area of such vegetation adjacent to the River Corve for some considerable distance. Other than trees on the immediate riverbank, for much of its length the river is surrounded by more or less intensive farmland or meadow. Hence, the benefits it provides for foraging bats, otters and more widespread wildlife are of importance in the local area with the site providing a 'wildlife stepping stone' along the river corridor.

- 4.33 They comment that the Shropshire Core Strategy Policy 'CS17: Environmental Networks' seeks to ensure the protection, maintenance, enhancement and restoration of the Environmental Networks in the county in line with the recommendations of both The Lawton Review and the NPPF.
- 4.34 As the site lies within the Environmental Network, the Ecology Officer comments that the application must clearly demonstrate how the development will 'promote the conservation, restoration and enhancement of priority habitats and ecological networks' as required by Policy CS17 and paragraph 174 of the NPPF, but that this has not been addressed in the submitted documents.
- 4.35 They also comment that the proposed layout would involve loss of a considerable proportion of the remaining trees and the remaining vegetation, leading to urbanisation of the site and that even along the river, beyond the dwellings, the landscape would be relatively manicured with gravel paths, seating and a fire pit. In particular, they comment that the fire pit and seating would result in night-time disturbance of the river habitat, particularly for otters and bats. They advise that this would be a significant intensification of use over the previous permitted development and recommend that the landscape plan should be amended to retain as much semi-natural vegetation as possible.
- 4.36 They comment that the submitted Ecological Impact Assessment states that 'if development were to be on the higher ground only, it would likely result in a reasonable proportion of the existing trees and shrubs being retained (with the conifer content reduced)' which is the case for the existing planning permission (17/00230/FUL).
- 4.37 They identify that the Ecological Impact Assessment goes on to state that the 'increased loss of trees and scrub associated with the larger planned development is likely to have a negative impact of greater significance.' It goes on to advise that this loss appears difficult to mitigate for, with only a relatively small area of undeveloped land available for further tree planting. They advise, that should planning permission be granted, then planting of wildlife friendly shrubs and trees (species with spring blossom and fruits) would be generally beneficial, but that they consider that this would not mitigate for the loss of the previous vegetation and its associated biodiversity. They express concern that there is no guarantee that the wildlife value of garden planting would be maintained by future occupants of the properties.
- 4.38 In addition the Ecology Officer comments that the potential ecological impacts on wildlife associated with the proposed development include disturbance, deterioration and removal of nesting, foraging and commuting habitats, caused by vegetation clearance, artificial lighting, noise, human disturbance and pet disturbance and predation. They comment that otters, bats, badgers and nesting birds are key species groups that would be affected.
- 4.39 They further comment that very few trees are shown to be retained on the landscaping plan and that the retained trees on the north side of the river are not any case located within the red line boundary. They make a number of detailed points which include the following:
- That Macedonian Pine is not a native species as stated in the indicative native woodland mix;
 - That the proposed pond is completely surrounded by a gravel path with a 3m wide

- gravel path adjacent, making this more a formal garden pond than one for wildlife;
- That there are no trees to be retained along the frontage of the Linney;
- That the replacement tree planting ('screen mix' and 'tree planting of medium and large trees') appears from the landscape plan to be only c. 3 to 7m wide, with a distance of only 2 to 4m from the buildings themselves;
- That the species quoted are beech and small leaved lime which grow to considerable height and cast a dense shade and that apart from the effects of tree roots on the buildings themselves, it is almost certain these trees would cast so much shade before they are mature that there will be demands for them to be felled; and
- That the landscaping plan would need revision to provide an indication of the long-term landscape that would be achieved, taking into account the growth of the species to be planted.

4.40 They comment in relation to SAMDev Policy MD12 on the Natural Environment, that it seeks to ensure the avoidance of harm to Shropshire's natural assets and that their conservation, enhancement and restoration will be achieved by ensuring that proposals which are likely to have a significant adverse effect, directly, indirectly or cumulatively, on any of the following:

- priority species;
- priority habitats;
- important woodlands, trees and hedges;
- ecological networks; and
- landscape character and local distinctiveness.

will only be permitted, if it can be clearly demonstrated that there is no satisfactory alternative means of avoiding such impacts through re-design or by re-locating on an alternative site and that the social or economic benefits of the proposal outweigh the harm to the asset. They advise that in all cases, a hierarchy of mitigation and compensation measures should be sought.

4.41 They advise that the development should seek to satisfy this policy, but that the submitted documents do not currently provide details of sufficient mitigation or compensation measures. They comment that the application is not a site which has been allocated for housing in the local plan and that in addition, under the NPPF, the planning authority should be seeking a net gain for biodiversity through development. They advise that it is necessary determine the balance between the socio-economic benefits of the scheme and the harm to natural assets, but that on purely ecological grounds, the previous planning permission would be significantly less damaging to the Environmental Network.

4.42 It should be noted that at the time of writing of this report that updated comments from the Ecology Officer, in response to the submission of the updated Ecological Impact Assessment are still awaited. These will, if received, be verbally reported to the Committee.

4.43 Shropshire Council - Trees: Advise that the development does not meet local and national policy requirements and aspirations for sustainable development in relation to natural assets and they therefore recommend that the application be refused, or that the applicant be given the opportunity to make significant revisions to the proposed layout

density and landscaping. The Tree Officer offers detailed comments on the application including details of the extensive planning history relating to trees, since the applicant acquired it in 2013 (or thereabouts), since when the Tree Officer advises that there have been tree removals that have significantly affected what was a healthy established block of woodland.

4.44 They comment that in recent decades the woodland has provided a significant feature on the landscape that was integral to the resilience of the existing and future habitat corridor and green infrastructure along the River Corve. The extensive loss of tree cover they advise has been tolerated subject to:

- (i) A compensatory planting scheme of 100 trees following substantial felling in 2015 in breach of section 211 of the Town & Country Planning Act 1990; and
- (ii) Implementation of an, as yet, undelivered compensatory landscape (tree planting) scheme associated with felling undertaken as part of applications 12/02275/FUL and 17/00230/FUL. This relates to a large block of woodland planting proposed (but not yet delivered) to compensate for losses associated with measures for the mitigation of offset flood waters that would be caused by level changes proposed under Planning Permission Ref. 12/02275/FUL.

4.45 They comment that this latest application rather than protecting restoring and enhancing the quality of agreed compensatory planting would erode it and would affect areas outside the development boundary of the extant planning permission and in doing so the area and depth of woodland, which they consider would undermine the woodland's long-term quality and functionality as a habitat and as a screen to the site and its contribution to the character and amenity of the area.

4.46 The key reasons for their objection are:

- That of the estimated 387 trees that formed the woodland in 2015 the applicant has felled 234 and proposes to remove a further 104 trees leaving just 49. From an arboricultural perspective they advise that there is not adequate compensation for this level of degradation to the woodland habitat under the proposed scheme;
- That the site is a windfall site that falls outside the development boundary for Ludlow and it would have an adverse effect upon important woodland/green infrastructure and its contribution to amenity and the local ecological network (although they acknowledge that adverse effect needs to be weighed against public benefits of the scheme under SAMDev Policy MD12);
- That the proposed development reneges upon existing landscape agreements against which felling has already been executed, causing a net loss rather than a net gain in green infrastructure;
- That the proposed development would remove a block of compensatory planting (of 100 trees), which were planted following felling in 2015 on approximately 0.2ha of the site in breach of section 211 of the Town & County Planning Act 1990, which would also result in a further net loss of green infrastructure rather than a net gain;
- That the application disregards pre-application advice on layout, landscape and density that has been offered consistently since 2011;
- That the development is over development at the site resulting in the core area (volume) of priority habitat (woodland) and landscape being significantly eroded without identifying appropriate on or off-site compensation for those losses in

breach of SAMDev Policy MD12; and

- Because the landscape proposal is indicative and not to scale, and the lack of detailed information of the level of ground disturbance proposed, it is not possible to assess clearly the likely success of the landscaping scheme or how it would function within the wider area.

4.47 The Tree Officer also comments that there is a disconnect between this application and previous applications in relation to the level of information on flood mitigation and the need for measures to absorb flood water displaced by the proposed flood mitigation measures.

4.48 In support of the above points the Tree Officers comments as follows:

4.49 Impact on Landscape Setting: That the existing extant planning permission was originally granted due to its low density, i.e. three dwellings, which would be screened by the depth and maturity of the surrounding woodland. Given the site's position in the foreground, and its potential to compete with the iconic skyline, of Ludlow skyline as seen from Coronation Avenue, and its visibility from the town walls and St Lawrence's Church, it is unlikely that planning consent would have been granted in the first place if the site had been open paddocks or limited to a thin band of riverside trees as it will be if this application is granted planning consent as it in its current form.

4.50 Need for development of this scale: That the applicant has an extant (implemented) Planning Permission (Ref. 17/00230/FUL) to build three houses at the site that was originally approved in the absence of a five year housing land supply, which significantly lowered the bar for what could be refused. This new application seeks to expand the development despite the following:

- (i) That the site falls outside the Ludlow development boundary;
- (ii) That there is now an adequate provision of housing sites in the Ludlow area; and
- (iii) That there are four major developments with planning consent in the Ludlow area these will deliver approximately 630 dwellings in the coming years, with further sites being considered under the development plan review.

4.51 In the light of these points and the effects on the natural assets at the site the applicant should be expected to demonstrate how the proposed development meets the hierarchy that defines the principles behind SAMDev Policy MD12;

4.52 Extent of the development: That the proposed development extends outside the development boundary for the extant planning consent 17/00230/FUL thus reducing the potential for sustainable on and off-site compensatory planting. If the hierarchy for mitigation and compensation set out in SAMDev Policy MD12 cannot be met then from a natural assets perspective the merits of this application over the extant one do not appear to provide a better form of development, and the original may be of more merit.

4.53 Policy considerations: That in considering the proposal due regard should be had where applicable to the following local and national policies and guidance; Core Strategy Policies CS6 and CS17, SAMDev Policies MD2 and MD12, and national policies and guidance for the natural environmental assets and habitats set out in the NPPF, Sections 2 (Achieving Sustainable Development) and 15 (Conserving and Enhancing the Natural Environment); all of which put a clear emphasis on the need to conserve, enhance,

connect, restore or recreate natural assets. Demolishing/fragmenting a functional woodland, as proposed as part of the current application does not meet with these aspirations.

- 4.54 Recent government strategy papers such as the “Clean Growth Strategy” and “A Green Future: Our 25 Year Plan to Improve the Environment” set a top down intention for not just the protection, restoration and enhancement of the country’s natural assets and green infrastructure but for a net gain. In these documents the fragmentation of these features as undesirable. This drive from above raises the profile of relevant policies and the need for new infill development to demonstrate that the public benefits of the development clearly outweigh the value of any assets affected and provide adequate compensation and or mitigation for any full or partial harm or loss.
- 4.55 Visual Impact and Heritage Assessments: That the justification for the development in the Landscape and Visual Impact Appraisal refers to small losses of mature trees but avoids making clear reference to large areas of mature woodland and trees already lost that are subject to existing or conditioned replacement planting. The appraisal gives a false impression of the impact of the development by not addressing in aggregate the impacts already accrued and requiring compensation from the applicant’s previous activities.
- 4.56 Appropriate Use of the Site: That both the Heritage Assessment and the Landscape and Visual Impact Appraisal follow the concept that the use of the site for a housing estate is more appropriate than as a functional woodland. Given the extensive evidence for the benefits to communities from the presence of strong green infrastructure in towns, on local economies and on mental and physical health; and given the extent of development already planned for Ludlow, there is a strong case for the conservation, protection and enhancement of functional blocks of woodland in close proximity to the town centre. This concept is very much supported by the governments policy papers discussed above.
- 4.57 Missed Viewpoints: That the use of nine viewpoints informing the landscape and visual impact assessment is helpful but incomplete, because a number of very key views into and across the site have been missed. These key locations include:
- (i) St Lawrence’s Church tower and the gardens of rest and the town walls carpark. These are locations where residents and visitors are openly encouraged to enjoy the view across The Linney to the open countryside beyond; a development adjacent to Linney House coupled with tree losses would be prominent in these views; and
 - (ii) A further missed viewpoint is from Coronation Avenue when approaching the Corve Bridge, where there is parking at the roadside and where the path is heavily used as part of linked walks across The Linney meadows and also by students and locals walking to and from Ludlow School and the associated sports facilities. As a gateway to the old town the view for vehicle users and pedestrians opens up from being enclosed by banks and trees to offering a presently uncontested view of the town’s historic skyline. Plot 8 in particular would stand out in competition with that view.
- 4.58 Development on the north-east end of the upper plateau brings the building line onto high ground that is clearly visible from the Coronation Avenue. Existing trees and cover would not screen this and due to the proximity of the plots to the site boundary and Plot No 8 in

particular. The effect is unlikely to be effectively mitigated. As a result, the limited space between the top terrace and the river means the use of large structural planting as a screen would need to be in close proximity to the buildings and it is predictable there would be an ongoing conflict between residents and the trees resulting in pressure to fell or prune them as they developed into maturity.

- 4.59 Development on the north-east end of the upper plateau also brings people and their property into proximity with the mature Ash and Sycamore trees with potential for proximity issues to drive future pressure to prune or remove these two prominent trees. This consideration was integral to the removal of the fourth plot from Planning Application Ref. 12/02275/FUL and has been raised regularly during pre-application discussions.
- 4.60 As has been highlighted above, for this development to proceed would require the complete removal of all remaining trees on the site barring a strip of 40 or so trees scattered along the boundary with the River Corve. On their own these would provide at best a permeable barrier and almost none in winter. To offset this fact the landscape appraisal relies heavily on the contribution of the trees located on the north side of the river, which are outside the site boundary and outside the control of the applicant. Many of them are mature or over mature and in decline and the long-term retention of these trees is in no way secure. It is neither reasonable nor sustainable to rely on off-site trees to provide cover for the development when the site is large enough to provide better on-site mitigation.
- 4.61 The indicative landscaping proposal: That this introduces the concept of a manicured woodland garden rather than a functioning naturally evolving block of woodland. It is likely that trees would be crown lifted to give clear site lines and that regeneration and shrubs such as thorn and bramble patches would be removed in the residents' desire to "manage the site". The extant consent was granted on the premise that the riparian woodland would be of a depth and density for natural processes to help it evolve and change and that there was a clear division between formal garden space and the more natural woodland. To move away from this concept represents an erosion and fragmentation of the natural infrastructure and habitat corridor.
- 4.62 Plots 2, 4, & 5 are located close to The Linney with small gardens in the intervening space, dominated by trees. Due to the close proximity of these trees these small south facing gardens and the properties will be end up being heavily shaded. This and the fall of detritus will predictably be seen as a burden effecting residents' enjoyment of their properties leading to pressure from residents to remove or prune the trees. Without the trees and until they have established sufficient height and volume, the development will be highly visible from both The Linney and the viewpoints along the town walls and St Lawrence's Church.
- 4.63 The landscape proposal is indicative and not to scale which given the site constraints resulting from a dense development and the level of ground disturbance, it is not possible to assess clearly the likely success of the indicative proposal or how it would function within the wider area. Of particular concern is the extent of level changes which will affect almost all of the southern two thirds of the site and are likely to render soil horizons as inhospitable to the successful establishment and ongoing good condition of mitigation planting.
- 4.64 Sustainable Design: That given the nature of the site and its potential prominence in the

landscape, the success of any development here is reliant on the quality of landscape mitigation and how it integrates with the development and surrounding area. It is therefore essential that all measures for landscape provision, aftercare and evidence that it will function within the local landscape, need to be provided for consideration prior to the determination of the application and not left to be negotiated as a reserved matter or through conditions, when complications associated with layout and density have not yet been resolved. The same is true for the design and provision of services, lighting and SUDS provisions. The submission of the detail before the application is determined, is essential and to ensure the development is in accordance with the expectations of SAMDev Policy MD2.

- 4.65 Pre-Application Advice: That almost all the points discussed above were raised during pre-application and other discussions going back to 2011 and Application Ref PREAPP/11/01118.
- 4.66 Recommendations: In light of the above comments the Tree Officer recommends reducing the layout and density of development to within the extant consent's boundary together with a redesign of the layout to ensure a sustainable long-lived landscape buffer along The Linney.
- 4.67 They recommend that the core area of the riparian woodland buffer needs to be increased to a depth were losses can be accommodated without significant effects on its density, and that it is not reasonable to rely on trees outside the site to deliver this.
- 4.68 They also comment that the integrity and durability of the woodland buffer needs to be bolstered through increased depth and that it should be clearly separated from the development as an independent feature from the proposed private garden space. This they advise would accord with the existing landscape arrangements agreed in relation to the extant planning consent. They advise that they envisage protecting this feature with a woodland Tree Preservation Order once any final agreement is offered up for consent.
- 4.69 The also comment that the level of detail on the functionality, specification and delivery and maintenance of landscape provision (i.e. its management) needs to be significantly improved in order to prove that appropriate mitigation and compensatory planting meets the requirements of SAMDev Policy MD2 and addresses the hierarchy behind the principles of Policy MD12. Clarification of the details of flood zone compensation are also required.
- 4.70 On the basis of the comments set out above, the Tree Officer advises that the application cannot in its current form be supported. The amendments to the landscaping scheme deleting the outdoor seating space and firepit do not alter the substantive comments from the Tree Officer.
- 4.71 Environment Agency: Do not object and the have offered comments as follows:
- 4.72 Flood Risk: That the site is (partially) located in Flood Zone 3, which is the high-risk zone as defined the Agency's Flood Zone Map with a 'high probability' of fluvial flooding and comprises land assessed as having a 1 in 100 year, or greater, annual probability of river flooding;
- 4.73 Sequential Test: That the NPPF details the requirement for a risk-based sequential test in

determining planning applications. This requires decision-makers to steer new development to areas at the lowest probability of flooding by applying the sequential test. It states that 'Development should not be allocated or permitted if there are reasonably available sites appropriate for the proposed development in areas with a lower probability of flooding'. This is matter for the Local Planning Authority to consider. If it is satisfied that the sequential test has been passed, then the following comments apply:

- In relation to the Flood Risk Assessment (FRA), that the Environment Agency does not have a model for the River Corve, but it is understood that the Local Lead Flood Authority do have access to a model for the river. The Environment Agency does have model for the River Teme. It is understood that the flooding on this site would be primarily from the River Corve as opposed to directly from the River Teme, however the flood conditions on the Teme will impact on the flooding regime of the River Corve. As a result of the updating of the model this will represent the best available data for this site;
- That the proposal will include some ground works to raise levels to enable additional properties in the south western section of the site. The model has taken a precautionary approach and included updated climate change guidance for both 35% and 70%. The model indicates that the 1 in 100 year plus climate change would be at a level of 82.44mAOD;
- That as the developable area of the site is to be set no lower than 84.5mAOD which is in excess of 2 metres above the design flood level (82.44mAOD), the proposed dwellings will be safe and also afforded dry access in a flood event; and
- That the development fits within the existing Flood Zone 1 boundary for the majority of the properties, although it appears the properties in the south west section of the development are only considered to be in Flood Zone 1 following proposed ground works. They comment that the Flood Risk Assessment Flood Modelling Study states that the impact on areas outside the site boundary is negligible, with the land reprofiling predominantly on land above the 1 in 1000 flood level and that what loss of storage within the floodplain that there would be (40m³), would be minimal and would be offset by improvements in conveyance;

4.74 River Corridor Easement: That similar to the previous application, they advise that the area of land within 8 metres of the top of bank from the River Corve (as a Main River) should be kept free of structures, including fencing. The use of a small part of the area within the easement as a 'social space' is acceptable, although they advise the inclusion of a condition to ensure that no new structures (including gates, walls and fences) are installed or constructed within 8 metres of the top of the bank of the River Corve and an informative referring to the need a permit under the Environmental Permitting (England and Wales) Regulations for any such work; and

4.75 Foul Drainage: That they have no objection to the connection of foul water to the mains foul sewer, as proposed.

5.0 THE MAIN ISSUES

- 5.1
- **Principle of the Development;**
 - **Impact on Trees;**
 - **Impact on Ecology;**
 - **Impact on the Conservation Area;**
 - **Traffic, Highway and Pedestrian Safety;**

- **Flood Risk;**
- **Design;**
- **Affordable Housing;**
- **Ground Contamination;**
- **Comparison Against Consented Scheme and the Fallback Position**
- **Overall Public Benefit v Harm – Planning Balance**

6.0 OFFICER APPRAISAL

6.1 Principle of the Development

- 6.1.1 The key issue in relation to the principle of the development is that the site is located immediately adjacent to, but outside, the development boundary for Ludlow, and that approval of the application would potentially be a departure from the development plan. As a site outside the development boundary the application raises the issue of whether there is an argument under SAMDev Policy MD3, for granting consent for the scheme, as a windfall site, under Paragraph 3 (of Policy MD3), taking into consideration the current settlement housing guideline figure for Ludlow and whether this is being met. Even then, if there is not case for granting consent under Paragraph 3, then insofar as there is an existing consented three house scheme approved on the site, there is also a fallback position to take into account in terms of whether this lends weight, as justification for the approval of the current eight houses scheme, and particular because the proposed eight house scheme, offers any or sufficient betterment or enhancement over the existing three house scheme.
- 6.1.2 In terms of the development strategy, Core Strategy Policy CS1 sets out the overall Strategic Approach to development in Shropshire, with development concentrated in Shrewsbury and County's Market Towns and Other Key Centres. Ludlow is identified in Core Strategy Policy CS3 and the SAMDev Policy MD1 and Schedule MD1.1 as one of the Market Towns and Key Centres, and SAMDev Policy S10 and S10.1 identify it as the largest market town in southern Shropshire, providing a focus for development. It includes a housing guideline figure of around 875 new dwellings in the period between 2006 and 2026 and it states that new housing development will be delivered primarily on the allocated housing sites east of the A49, set out in schedule S10.1a and identified on the Policies Map, alongside additional infill and windfall development, within the town's development boundary. The development boundary is shown on the Adopted Policies Map 2015 – Ludlow Area Place Plan (Inset 1). This shows the development boundary extending along The Linney on the south side of the application site, with the site itself just outside the development boundary. As such it falls within the area of land to be treated as countryside under Core Strategy Policy CS5 and SAMDev Policy MD7a.
- 6.1.3 Neither Core Strategy Policy CS5 nor SAMDev Policy MD7a envisage the development of new open market housing in the countryside and both make clear that new development will be strictly controlled in accordance with national planning policies protecting the countryside. However, Paragraph 3 of SAMDev Policy MD3 sets out that the circumstances in which planning permission may exceptionally be approved for sites outside settlement development boundaries.
- 6.1.4 Paragraph 3 states that where a settlement housing guideline appears unlikely to be met, additional sites outside settlement development boundaries that accord with the settlement policy may be acceptable subject to the considerations set out in Paragraph 2.

The considerations set out in paragraph 2 include:

1. The increase in number of dwellings relative to the guideline; and
2. The likelihood of delivery of the outstanding permissions; and
3. The benefits arising from the development; and
4. The impacts of the development, including the cumulative impacts of a number of developments in a settlement; and
5. The presumption in favour of sustainable development.

- 6.1.5 The starting premise of paragraph 3 is that it applies only in instances where a settlement housing guideline appears unlikely to be met. Therefore, the first issue is whether the current settlement housing guideline for Ludlow has or has not been met or is unlikely to be met.
- 6.1.6 The latest figures are set out in the Council's Five-Year Housing Land Supply Statement published in March 2020. This indicates that as of the 31st March 2019, there had been 480 completions and Planning Permissions of Prior Approvals for 802 additional dwellings, providing a total of 1282 completed sites or dwellings with Planning Permission. There are no outstanding additional allocations. Therefore, when set against the Housing Guideline figure of 875, it is clear that there is already substantially over provision in Ludlow. Because the numbers are so substantially over the Housing Guideline figure, it cannot be considered there is any justification in terms of the numbers and consequently no case at all for invoking paragraph 3 of the Policy MD3. As such in terms of development plan policy there is on the face of it, no case for the development being justified in terms of policy set out in the development strategy of the development plan. The applicant does not dispute this and does not attempt make a case that the Policy MD3 should be invoked. There is no disagreement between the Council and the applicant on this basis.
- 6.1.7 There are alternatively potentially two significant material considerations to set against this, the first being that the NPPF, sets out policies for rural housing on Paragraphs 77 to 79. These make clear, in paragraph 77, that in rural areas, planning policies and decisions should be responsive to local circumstances and support housing developments that reflect local needs and, in paragraph 78, that to promote sustainable development in rural areas, housing should be located where it will enhance or maintain the vitality of rural communities. As a site on the edge of Ludlow, the issue of the sustainability of rural village communities, is not a relevant consideration. Paragraph 79 then states that planning policies and decisions should avoid the development of isolated homes in the countryside unless one or more of a number of specified circumstances apply, but none in this case are applicable or are being argued by the applicant. In the current situation of an oversupply of housing completions and permissions against the identified requirement, there is therefore no case in terms of national planning policy outweighing, development plan policy as a material planning consideration.
- 6.1.8 The only other case to consider then is whether the fallback to the existing consented scheme lends weight as justification for approval of the current eight houses scheme and/or whether the proposed eight house scheme, offers any, or sufficient, betterment or enhancement over the existing three house scheme, as a material consideration.
- 6.1.9 Setting aside the issue of the fallback to the consented three house scheme, unless the development can be considered to offer any or sufficient betterment or enhancement

over the existing three house scheme to warrant approval of the application, then in terms of the principle of the development, it has to be considered to be contrary to the development plan, and in particularly Core Strategy Policy CS5 and SAMDev Policies S10 and MD7a, because of its location outside the development boundary for Ludlow.

- 6.1.10 The fallback is of significance insofar as it establishes the principle of the development of three houses on the site, and that if the eight scheme is not approved, the applicant can still implement the approved three house scheme. It does not however provide justification for the approval additional dwellings on the site. What it does however do is raise the issue of whether there is justification for approving an alternative scheme with more than three houses, in this case, eight, because the resulting development may provide sufficient betterment or enhancement over the existing three house scheme to warrant approval of the application. This then comes down to the consideration of the main impacts of the development and the extent to which it either gives rise to either harm or benefit compared with the existing approved scheme. To consider this the main impacts of the development need to be considered. This is essentially the argument of the applicant.

6.2 Impact on Trees

- 6.2.1 The impact on the trees on the site is by far the most significant aspect of the scheme because of its significance as an area of established woodland and because it requires the felling of almost all the trees and the clearance of the upper level and part of the lower level to enable the proposed site reprofiling works to be undertaken. Consideration of the impact on the trees, is quite a complex matter, which to fully understand, it is necessary to consider it in the context of; the overall recent history of the tree cover on the site and the resulting environmental baseline prior to the approval of the existing consented scheme; what the existing consented scheme proposes and in terms of felling and replanting and the additional felling and replanting that has been undertaken; what the current application proposes and how this differs from the consented scheme; and what is now proposed by way of replanting, landscaping and management of the site and what the end result will be. This is complex, but important to understand in terms of justification for the recommendation on this application and its determination (now on appeal).

The overall recent history of the tree cover on the site

- 6.2.2 As set out above, the site historically is understood to have been worked as a mineral extraction site. As detailed above, there is some disagreement between the applicant and third parties on when mineral extraction ceased. The Design and Access Statement submitted with the 2012 Planning Application Ref. 12/02275/FUL suggested that the upper part of the site adjacent to the Linney was used as a coal merchants yard, while the lower part of the site adjacent to the river was used by Jolly's Circus for overwintering animals and caravans, although it is unclear exactly when this would have been. Photographs submitted with that application, which it states, date from c.1989-1990 and some from 1995, show the site as largely open but with scattered trees, at least some of which, were planted 25 years earlier, i.e. in the mid to late 1980s by the previous owner.

- 6.2.3 Aerial images of the site from 1999 show the site substantially covered in trees, albeit with some paths and rides through it, so that it had by that date developed as a substantial block of woodland. Additional aerial images show that this continued to develop and mature through to 2015.
- 6.2.4 The report of the tree survey undertaken in 2012 and submitted as part of Planning Application Ref. 12/02275/FUL indicated that at that time there were approximately 250 individual recorded trees plus groups comprising approximately 100 further trees on the site. The report indicates that these were a mixture of self-set native species and planted ornamental trees including some conifers.
- 6.2.5 The 2012 planning application initial identified that 64 trees would be felled, but that these would largely be confined to the areas where four initially proposed dwellings were to be located, the idea being to retain as many of the trees on-site as possible. The submitted application was subsequently amended to omit one of the proposed dwellings, reducing it to a three-house development which was what was approved in June 2014. Details of the tree protection and landscaping of the site were reserved by condition, and a discharge condition application (Ref. 16/01767/DIS) was subsequently submitted and approved in November 2016. In addition, there were two subsequent amendments (Refs. 16/02803/AMP and 16/05582/AMP) which made a revision to the siting of the house on Plot 2 to avoid a mains sewer and the removal of an additional tree that had not been plotted on the originally submitted tree survey plan. As result of the submitted and approved landscaping plan, it was identified that in total 100 trees would need to be felled (rather than the originally proposed 64), but as a result 194 trees would be planted as mitigation. The scheme nevertheless retained the substantive tree cover on the upper part of the site adjacent to The Linney. Following the amendments, the net effect is that the total proposed loss would be 99 trees and that total to be replanted would be 183 new trees (which have yet to be planted).
- 6.2.6 What however also happened at this time is that the applicant, before the submission of the discharge of condition application, felled 157 other additional trees, without first giving notice under s.211 of the Town and Country Planning Act 1990, because of the location of the site in a Conservation Area. It is understood that some of these trees were those included in the number in the subsequent discharge of condition application. These trees were as such unlawfully felled. The applicant however, as a result agreed to a voluntary replanting scheme comprising 100 replacement trees planted as whips and these have been planted.
- 6.2.7 The subsequent 2017 Planning Application Ref. 17/00230/FUL essentially took into account the details approved in the 2014 permission and in the subsequent discharge of conditions application and amendments. It is understood that the additional 99 trees have been felled as pre-commencement works. The currently submitted Tree Constraints Plan appears to represent the current position on site in terms of the trees remaining, i.e. 145 trees, although for the reasons set out in paragraph 6.2.8 below it is not considered to present a complete and accurate record of the tree on the site.

What the current application proposes and how this differs from the consented scheme

- 6.2.8 The Arboricultural Report submitted with the current application states that 105 trees and groups of trees will need to be removed out of a total of 145. It states that the majority of trees to be lost are small or moderately sized category C specimens with low amenity

value. The two most important trees within the former garden area of Linney House, the Sycamore and the Ash located adjacent to the site entrance to Plots 5 to 8 are to be retained. The report is accurate in stating that the majority of the trees are not particularly significant trees as individual trees and the loss of each as an individual tree does not give rise to significant harm. However, the report has inadequately considered the impact of the collective loss of the trees and is even misleading in understating the loss that will result. As stated above, there has been disagreement between the Tree Officer and the applicant about the number of trees that have been felled. The Tree Officer has included an Addendum with his comments that details the recent tree history on the site and identifies that there were 256 trees felled in 2015-2016, 157 of which were unlawfully felled and then a further 99 that were additional felled as part of the authorised pre-commencement works to the implementation of the 2014 Planning Permission (Ref. 12/02275/FUL). This is now largely of historical significance, but what is relevant, is that the applicant agreed and undertook the planting of 100 trees as compensatory planting for the unlawful felling and also agreed to the planting of a further 183 tree as additional compensatory planting, pursuant to the discharge of conditions on the 2014 Planning Permission. This planting has yet to be undertaken. Whilst these trees do not exist on the site, they do form part of the baseline for the consented scheme, now implemented under the 2017 Planning Permission. The Arboricultural Report submitted with the current application should have identified these as part of the environmental baseline on the site and is inadequate and misleading in that respect, If however the currently submitted scheme is intended to supersede that approved under the now implemented 2017 consent, as it is, then the correct environmental baseline can be considered to the current position before the felling of any additional trees (even if they do not remain on site) as part of the implementation of that consent, the approved replanting required arising from that consent and/or the subsequent discharge and variation of condition applications attached to that consent.

- 6.2.9 Notwithstanding these inadequacies in the submitted details, it is clear from the application that all the trees on the part of the site to be affected by the reprofiling works will need to be felled and that these will be lost, regardless of any dispute over the exact numbers of and accuracy the Arboricultural Report. In that respect the substantive issue is one of what is proposed by way of replanting on the site, once the re-profiling has been undertaken.

What is now proposed by way replanting, landscaping and management of the site

- 6.2.10 This is a further source of inadequacy in the information provided by the applicant in that only an indicative landscaping plan has been submitted. The submitted Landscape and Visual Appraisal describes the scheme as incorporating the following “principal elements”:

- Planting of groups of native species trees and shrubs on 2m high mounds at both the western and eastern site entrances and along the southern boundary will assist in filtering and partially screening views of the proposed residential properties from the Linney and the inside of Westview (the property opposite on the south west corner of the site);
- Native tree and shrub planting and areas of wildflowers to be established on the new embankment to be formed along the northern boundary of the developed area in order to assist in filtering views of the proposed development from the public footpath to the north and to provide understorey habitat for wildlife;

- New ecological pond on floodplain in north-west corner of site with associated informal seating area (now deleted);
- Informal bound gravel and woodchip footpaths creating riverside walk in the floodplain open space corridor;
- Informal woodland area seating adjacent to the River Corve (also now deleted); and
- Low shrubs in front gardens of some of the properties, selected to be of value to wildlife.

6.2.11 The submitted details include a landscaping plan, which until the recently submitted amendment, showed an “Indicative Woodland Mix” and “Indicative Screen Mix” and the accompany Tree and Shrub Planting Schedule provided details of the types, numbers (1647) and sizes of trees and shrubs proposed, which included some heavy and extra heavy standard trees. Notwithstanding that the information provided, and the subsequent amendment, the advice from the Tree Officer, is that the amended scheme remains inadequate, and that the fundamental objection to it, because of the substantial tree loss on the site, remains. The Tree Officer, and the Ecology Officer advise that the application needs to demonstrate that there will be not only an adequate level of mitigation by way of new tree planting to re-establish the woodland on the site, but also that it justifies the substantial loss of the existing woodland block for up to twenty years, by providing a significant level enhancement, which the Tree Officer and the Ecology Officer advise the currently submitted details fail to provide.

6.2.12 Notwithstanding the above advice, they also comment that once the woodland replanting scheme is secured, there is then a key issue of how retention of the scheme will be managed, and in particular how the common areas outside the curtilages of the eight houses, will managed going forward. The submitted Tree and Shrub Planting Objectives statement refers to the site being subject to a ten year management plan, but no details are provided, and it is unclear how the common areas of the site would be managed, either initially or on an on-going basis in the longer term.

6.2.13 Notwithstanding these inadequacies, the fundamental difficulty with the scheme is that it will result in the loss of a significant proportion of the trees on the site, and in essence almost all of the trees on the upper part of the site adjacent to The Linney. Furthermore, because of the number of dwellings proposed, the advice is that it simply not possible to provide adequate mitigation by way of replanting/re-landscaping scheme, that would make up for the loss. The Tree Officer, the Ecology Officer and the Conservation Officer have all advised that the current scheme is unacceptable and that for an alternative development proposal on the site to be acceptable, a reduced level of development with an enhanced tree planting and landscaping scheme together with a secured management plan for the site is required. This in essence is what the negotiated amended four houses scheme included in Planning Application Ref. 19/05519/FUL has sought to secure. This has yet to be brought to the Committee for consideration.

6.2.14 One further point to note is that the existing consented three house scheme, was approved on the basis that much of the existing tree cover on the site would be retained and enhanced by further replanting as set out about. In that respect the existing scheme is a preferable option to the what is proposed under the current eight house scheme. On the other hand, the approved scheme has not secured a management plan for the future of the woodland on the site, and it would be a benefit that could be secured through the approval of a new consent.

6.2.15 Overall, however the loss of the trees and woodland on the site without adequate mitigation, and enhancement would give rise to what could only be considered to be a significant and unacceptable level of harm, from an arboricultural, ecological and conservation perspective. The comments of objectors are well founded. The proposal simply does not represent an acceptable scheme, and refusal could be justified on the grounds of the impact on trees alone. It would be contrary to Core Strategy Policies CS6 and CS17 and SAMDev Policies MD2 and MD12 and paragraph 170 of the NPPF.

6.3 Impact on Ecology

6.3.1 In relation to the impacts on Ecology, the comments of the Ecology Officer as set out above are self-explanatory and make clear that the proposal would result in significant damage to the Environmental Network and that the application as submitted does not provide details of sufficient mitigation or compensation measures for the harm to natural assets of the site. They therefore advise that the consented three house scheme would be significantly less damaging to the Environmental Network and that the submitted scheme does not provide adequate details or adequately demonstrate that the harm will be appropriately mitigated in accordance with the hierarchy of mitigation.

6.3.2 The requirement of Core Strategy Policies CS6 and CS17 is that new development should protect, restore, conserve and enhance the natural environment and under SAMDev Policy MD12 should only be permitted if it can be clearly demonstrated that there is no satisfactory alternative means of avoiding such impacts through re-design or by re-locating on an alternative site and the social or economic benefits of the proposal outweigh the harm to the asset and that in all cases, a hierarchy of mitigation and compensation measures will be sought. As detailed further below, whilst there are public benefits arising from the scheme, including the repair of the boundary wall and improvements to access along the Linney with the provision of the proposed passing place, an affordable housing contribution and an improved architectural design, the advice to the Committee is that these are so substantially outweighed by the damage cause by the loss of the trees and woodland and the inadequacy of the landscaping scheme and the impacts arising from the resulting harm, that the public benefits cannot be considered to outweigh the harm. The proposal therefore must be considered to be contrary to Core Strategy Policies CS6 and CS17, SAMDev Policies MD2 and MD12 and the relevant paragraphs of the NPPF.

6.4 Impact on the Conservation Area

6.4.1 The impact of the proposal on the Conservation Area is summarised in the comments of the Conservation Officer as set out above, so that there is no need to repeat these. If the Committee was determining the application, it would need to be mindful of the obligations under s.66 and s.72 of the Planning (Listed Buildings and Conservation Areas) Act 1990.

6.4.2 Again, in relation to the impact on the Conservation Area, as set out in the Conservation Officer's comments, because the harm is assessed as being less than substantial, this has, in accordance with paragraph 196 of the NPPF to be weighed against the public benefits of the proposal. In part those benefits in fact also relate in part to the character and appearance of the Conservation Area insofar as they arise from the works to the repair and restoration the boundary wall along The Linney. This is currently in a poor state of repair and is or will be at risk of collapse if works to it are not undertaken. The

detail of the precise nature of the works to the wall are not included in the application, but as well as realignment in its central section to allow for the construction of the passing place, some rebuilding is also likely to be required. This will need to be handled with considerable care and attention to the detail, including clearly defining the extent of any demolition and rebuilding and details of the pointing and any replacement stonework. This can be reserved by condition. The details of the works to The Linney and the construction of the passing place would similarly need to be conditioned to ensure that they are acceptable and sensitive to the character and appearance of the Conservation Area and the setting of the adjacent Listed Buildings.

- 6.4.3 Notwithstanding these positive points, the major shortcoming with the scheme, as set out above in the comments of the Conservation Officer, arise from the loss of the trees and the woodland cover on the site and the inadequacy the landscaping scheme, as result of the level of development proposed. This is significant to the character and appearance of the Conservation Area, giving rise to the less than substantial harm to its significance as a designated heritage asset, contrary to Core Strategy Policies CS6 and CS17, SAMDev Policies MD2 and MD13 and Paragraphs 193, 194, 196 and 200 of the NPPF. In relation to the requirement set out in paragraph 196, as detailed above the public benefits arising from the proposal again must be considered to be substantially outweighed by the damage caused by the loss of the trees and woodland, the inadequacy of the landscaping scheme and the impacts arising from the resulting harm. The proposal therefore must be considered to be contrary to Core Strategy Policies CS6 and CS17, SAMDev Policies MD2 and MD13 and the relevant of the NPPF.

6.5 Traffic, Highway and Pedestrian Safety

- 6.5.1 In relation to traffic, highway and pedestrian safety, the key consideration is that The Linney is very narrow and includes a bend halfway along the southern boundary of the site. This limits the visibility of on-coming vehicles in both directions. The bend is also where the proposed crossing point for pedestrians would be located, adjacent to the gateway into the St Leonard's Church Yard. The development of the site would give rise to additional traffic on a road that does present some difficulties, but the scheme does offer mitigation by way of the provision of the proposed passing place and also the repair of the boundary wall along The Linney, which directly fronts the road without any intervening kerb or verge. These would be benefits of the scheme. Although not all the details have been submitted as requested by the Highway Authority, there is no in principle objection on highway and pedestrian safety grounds subject to the submission of further details, so that there is no basis at this stage for considering that the proposal would not be acceptable in relation to traffic, highway and pedestrian safety considerations. Securing of the provision of the passing place could be achieved by the imposition of a Grampian style condition requiring it provision before the development is occupied.

6.6 Flood Risk

- 6.6.1 Although part of the site is located in Flood Zones 2 and 3, the Environment Agency has advised that the development fits within the existing Flood Zone 1 boundary for the majority of the properties, and that it is satisfied that what loss of storage within the floodplain that there would be, would be minimal and offset by improvements in conveyance. With regard to the reprofiling works proposed, it further advises that if the

developable area of the site is to be set no lower than 84.5mAOD which is in excess of 2 metres above the design flood level (82.44mAOD), that the proposed dwellings will be safe and also afforded dry access in a flood event. As such the site cannot be considered to raise any significant issues in terms of flood risk.

6.7 Design

6.7.1 The application does not give rise to any significant issues, purely in terms of the architectural design. As set out above the Conservation Officer, welcomes the contemporary design concept behind the scheme as being an improvement on the existing consented scheme, which should be recognised as a benefit. However, in terms of the overall design of the scheme, taking into account the loss of the existing woodland cover and the inadequacy of the landscaping scheme to provide adequate level of mitigation for the harm caused, essentially because of the level development proposed on the site, the design cannot be considered to be acceptable or therefore policy compliant with the key relevant development plan and national policies. These include Core Strategy Policy CS6 and SAMDev Policy MD2, as well as Chapter 12 of the NPPF. The proposal also cannot be considered to be acceptable in relation to the Principle 2 (Local Distinctiveness) set out in the West Midlands Design Charter, which has recently (on 1st June 2020) been endorsed by Cabinet as a material consideration to inform decisions on planning applications.

6.8 Affordable Housing

6.8.1 As set out in the comments of the Affordable Homes Officer, the proposal exceeds the threshold for an affordable housing contribution. Under Core Strategy Policy CS11, the proposal should include on-site affordable homes provision, which is required for developments of five dwellings or more. This is however not proposed. A contribution would instead be provided in lieu of on-site provision at the Prevailing Target Rate of 15%. It should be noted that although the site is located outside the development boundary for Ludlow, it is still located within the Ludlow Town Council area, so that the Target Rate is the lower 15% band applicable in the town, rather than the higher 20% applicable in the surrounding rural area.

6.8.2 A s.106 agreement would be required to secure the contribution and the applicant has, as part of the submitted appeal, included a draft Planning Obligation for a contribution of £108,000. Whilst having included this they also state that they considered that such a payment should not be necessary, because the financially significant costs of the highway improvements that are proposed. Where viability of a development is affected by a required financial contribution, then the normal route to dealing with this is for the applicant to request open book accounting to assess the financial aspects of the development, as set out in the Council Type and Affordability of Housing Supplementary Planning Document (SPD) (2012). In this case no such request has been submitted by the applicant.

6.8.3 Notwithstanding, the issue over any request for open book accounting, if the required affordable housing contribution is offered then there is no reason for it to be considered to be a determining issue and the requirement can be considered to add to balance of the public benefit that would be provided by the scheme.

6.9 Contamination

6.9.1 This is not a major or determining issue and can be addressed by condition as recommended by the Regulatory Services Officer.

6.10 Comparison Against Consented Scheme and the Fallback Position

6.10.1 As set out above the application needs to be considered, having regard the existing consented three houses scheme compared with the proposed eight house scheme in terms of the relative merits and harm of the two proposals.

6.10.2 As set out above the primary concern in relation to the existing scheme is with its relatively mediocre quality, on what is a key site, in Ludlow. The proposed dwellings, of the consented scheme, are of a more traditional although mixed design, but add little of merit to the character and appearance of the Conservation Area. On the other hand, as noted above, and in the comments of the Tree Officer, Ecology Officer and Conservation officer, it is intended to retain the existing trees to a greater extent than the proposed eight house scheme, and there is additional compensatory planting that is still to be undertaken. There is, however, no agreed management plan for the long-term future management of the retained woodland. The proposed eight house undoubtedly provides a more interesting design response than the existing consented scheme, but what is of most significance is that the development of the proposed eight house scheme would require the almost wholesale removal of the trees on the upper part of the site adjacent to the Linney, and the level of development proposed will make it impossible to re-establish anything close to the existing level of woodland cover on the site, given rise to the harm identified, as set out above. In that respect the proposed eight house scheme would give rise to significant harm that the approved three house scheme would not.

6.11 Public Benefit v Harm – Planning Balance

6.11.1 As set out above, the public benefits of the scheme can be considered to include the repair of the boundary wall and the improvements to access along the Linney, the affordable housing contribution that would be secured and an improved architectural design. However, the harm caused by the loss of the trees and woodland in the absence of an adequate level of re-planting and landscaping to re-establish the lost woodland and habitat, as a result of the level of development proposed on the site, would substantially outweigh that public benefit in terms of the overall planning balance. An amended scheme involving the development of fewer houses, may provide an acceptable alternative proposal, but the currently proposed eight house scheme does not do that.

7.0 CONCLUSION

7.1 That the proposed development comprising the re-profiling of the ground, erection of eight detached houses with car shelters, the creation of two new access points and the restoration of the stone boundary wall along The Linney, on land adjacent Linney House at The Linney, Ludlow, is not acceptable in terms of the principle of the development as it is located outside the development boundary for Ludlow and is therefore contrary to Core Strategy Policy CS5 and SAMDev Policies MD7a and S10.

7.2 That the latest figures set out in the Council's Five-Year Housing Land Supply Statement published in March 2020 confirms that the number of completions and Planning Permissions or Prior Approvals is so substantially over the Housing Guideline figure for

Ludlow, that there is no case for invoking paragraph 3 of SAMDev Policy MD3;

7.3 That by virtue of the significant level of harm that would be caused by the scheme as a result of the loss of the trees and woodland on the site and the resulting in harm to the natural assets of the site, harm to the Environmental Network and the less than substantial harm to the Ludlow Conservation Area, without adequate mitigation, compensation or enhancement, which significantly outweighs the benefits of the scheme, it cannot be considered to acceptable and therefore would be contrary to Core Strategy Policies CS6, CS17 and SAMDev Policies MD2, MD12 and MD13 and the NPPF. There are no other material considerations that lead to the view that the proposed eight house scheme would otherwise offer betterment over the approved three house scheme, that would justify approval of the application.

7.4 Accordingly, the committee is advised to indicate to the Secretary of State that it would have been minded to refuse the application for the reasons set out in recommendation at the beginning of this report.

8.0 Risk Assessment and Opportunities Appraisal

8.1 Risk Management

8.1.1 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; and
- The decision may be challenged by way of a Judicial Review by a third party.

8.1.2 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.

8.1.3 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

8.2.1 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.

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

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

8.3 Equalities

8.3.1 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

9.1 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.

10.0 Background

Relevant Planning Policies

National Planning Policy Framework (2019)

West Midland Design Charter (2020)

Shropshire Local Development Framework Adopted Core Strategy (2011)

Shropshire Council Site Allocations and Management of Development Plan (SAMDev) (2015)

Shropshire Local Development Framework - Type and Affordability of Housing Supplementary Planning Document (SPD) (2012)

11.0 Additional Information

View details online:

<https://pa.shropshire.gov.uk/online-applications/applicationDetails.do?activeTab=details&keyVal=PN6SUDTDK2M00>

<p>List of Background Papers (This MUST be completed for all reports, but does not include items containing exempt or confidential information) As set out above</p>
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<p>Cabinet Member (Portfolio Holder) Councillor Gwilym Butler</p>

<p>Local Member Cllr Andy Boddington.</p>

<p>Appendices None</p>

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Committee and date

Southern Planning Committee

28 July 2020

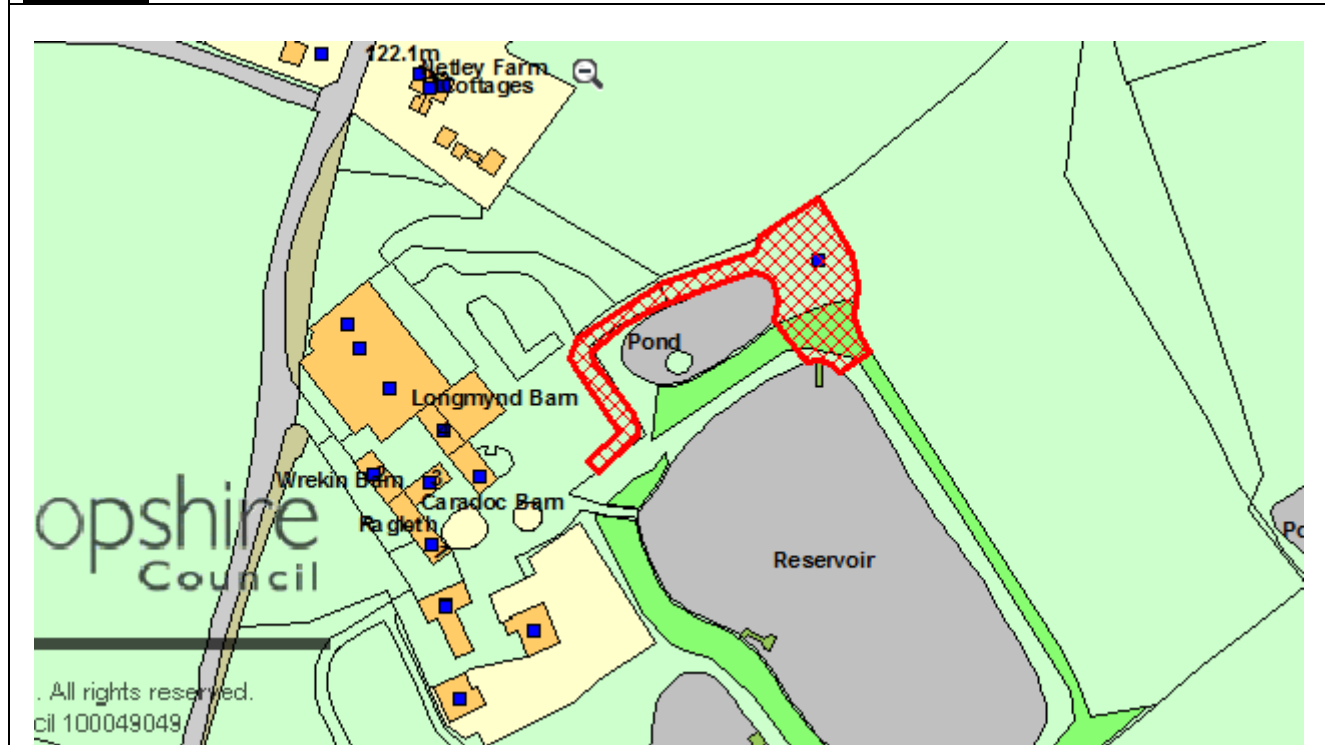
Development Management Report

Responsible Officer: Tim Rogers
 email: tim.rogers@shropshire.gov.uk Tel: 01743 258773 Fax: 01743 252619

Summary of Application

Application Number: 20/00802/FUL	Parish:	Condover
Proposal: Erection of 1No. holiday let lodge		
Site Address: Proposed Holiday Let At Netley Old Hall Farm Dorrington Shrewsbury Shropshire		
Applicant: Mrs Kelly Homden		
Case Officer: Frank Whitley	email: planning.southern@shropshire.gov.uk	

Grid Ref: 346690 - 301974



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Recommendation:- Refuse, subject to expiry of departure advertisement period (04-08-2020)

Recommended Reasons for refusal

1. It is acknowledged that the holiday let lodge proposed would make a small contribution to the economic objective of sustainable development through the users support of the rural economy. However, it would be a permanent and substantial new build development contrary to the adopted Core Strategy, in particular the presumptions of CS5, CS16 which seek to focus tourist related development on the re-use of existing buildings. The development is contrary to MD11 of the adopted SAMDev Plan, which limits new holiday accommodation development to either caravans or the conversion of appropriate rural buildings. The proposed development, by reason of its substantial built form and setting impact on heritage assets would fail to make a positive contribution to the character of its setting and the countryside contrary to the environmental objective of sustainable development set out in the National Planning Policy Framework and Development Plan policies, CS5, CS6, CS17, MD2 and MD13.

2. To the extent the existing wedding business is considered rural diversification, the requirement for the provision of new, additional accommodation has not been fully justified. The development does not sufficiently relate to an established and viable tourism enterprise in the countryside where accommodation is required, contrary to CS16 and MD11 of the adopted Core Strategy and SAMDev Plans.

REPORT

1.0 THE PROPOSAL

- 1.1 The application seeks planning permission for the Erection of 1No. holiday let lodge. The application follows 19/05115/OUT. That application was made only in outline was withdrawn on the grounds of Officer advice that a determination could not be made without further detail relating principally to appearance and layout. Further details are now submitted.
- 1.2 The holiday let lodge is to be set out on two floors consisting of:
Ground floor: Four en-suite double bedrooms, dressing room, gallery landing, computer gaming room, food preparation/store, communal kitchen/living/dining/lounge, and external covered terrace.
Basement: Cold store, staff w.c/shower, hall, porch, garage.
- 1.3 The elevational treatment would include a mix of dual pitched and mono pitched roofs, extensive full height aluminium framed glazing and a chimney stack with a monopitch cowl feature. The external finishes would be a combination of facing brick and rendered blockwork for the walls, with metal composite upstand roofing. The vehicular access and hard standing finishes would be tarmacadam and permeable gravel and paving.
- 1.4 The application is supported by a heritage impact assessment, planning and design and access statement and business plan.

- 1.5 As far as can be ascertained from the business plan, the lodge is to offer high quality accommodation to groups or individuals. Professional chefs may offer cookery tuition in the communal kitchen, dining and living areas.
- 2.0 **SITE LOCATION/DESCRIPTION**
- 2.1 Netley Old Hall is accessed via a relatively narrow lane with passing places @1.7km to the SW of the A49 at Dorrington.
- 2.2 Netley Old Hall Farm consists of a former farmhouse (Grade 2 listed) and a group of historic farm buildings which are now used for residential/holiday let purposes. Adjacent is a large modern farm building now used for commercial purposes.
- 2.3 In the extensive grounds are three amenity lakes (illustrated Lakes A-C on the submitted block plan), with further managed paddocks, hedgerows and lines of trees.
- 2.4 The proposed holiday let lodge is to be located somewhat detached from the main group of buildings (@115m), adjacent to Lane A and Lake B. Access would be by way of a gravelled driveway from the former farm buildings around the side of Lake A. Lake B adjacent is not a natural feature and is slightly elevated above Lake A, held behind a raised bank. Therefore due to topography, the holiday lodge would be built up from existing ground levels, to take advantage of views over Lake B.
- 2.5 Netley Old Hall has an established wedding venue business dating from the late 2000s. A marquee was initially erected as part of the business and approved retrospectively in 2010 for a period of two years only. Another application in 2012 extended the permission - a further application in 2015 approved the marquee still further for five years.
- 2.6 A permanent wedding venue and function building was approved in August 2018 to replace the marquee, designed specifically for that purpose (ref 18/00246/FUL). With that, 15 small holiday lodges were approved in the adjacent paddock, primarily to be available for wedding guests, though not expressly limited for that purpose. Neither replacement marquee building or lodges have yet been constructed.
- 2.7 The current proposal is intended to build on the established wedding business, though is also described in the application as a more general “leisure” proposal, and “expansion of holiday lettings”.
- 2.8 The site for the proposed holiday lodge was previously approved for one of two log cabins in 2015 (ref 15/00255/FUL). The second log cabin in that permission was to be positioned at the far end of Lake B. The planning permission has not been implemented and since expired. However a smaller log cabin was also approved and built adjacent to Lake C in 2006 (SA/06/0746/F).

2.9 The site is not within the Shropshire Hills AONB.

3.0 REASON FOR COMMITTEE DETERMINATION OF APPLICATION

3.1 The scheme does not comply with the delegation to officers as set out in Part 8 of the Shropshire Council Constitution as the Parish Council have submitted a view contrary to officers. The Principal Planning Officer, the Chair and Vice -Chair of the South Planning Committee have discussed how the application should be determined. With regard to relevant material planning considerations and the views of the Locally Elected Member it has been agreed the application should be determined by Committee.

4.0 Community Representations

Consultee Comment

4.1 Parish Council- support

At its remote meeting on 15th April 2020, Condover Parish Council resolved to support this planning application. No further reasons have been given.

4.2 Conservation- objection

We had provided comments on an earlier outline planning application 19/05115/OUT similarly proposing the development of an executive holiday lodge to the east of the historic farmstead comprised of Netley Old Hall farm where it is understood that this earlier application has been withdrawn in favour of a full planning application now being submitted.

We would reiterate our background comments which are also similar to those made on an earlier application 18/00246/FUL for the erection of holiday lodges associated with the established wedding venue business on the wider site, as follows: The application site is in a picturesque rural location south-west of the settlement of Dorrington. The property is occupied by a number of traditional historic buildings including the Grade II listed Netley Old Hall, a late 16th Century farmhouse, which is set back from the main highway amongst a number of traditional agricultural ranges, most of which have been converted to residential and other mixed uses, as well as several more modern structures.

We would also reiterate the following policies and legislative requirements with respect to heritage matters which would be applicable to this proposal: Local Shropshire Council Core Strategy policies CS5 (Countryside and Greenbelt), CS6 (Sustainable Design and Development) and CS17 (Environmental Networks), SC SAMDEV policies MD2 (Sustainable Design), MD7(a) (Managing Development in the Countryside) and MD13 (The Historic Environment), as well as legislatively

there is the need to fully consider Section 66 of the Planning (Listed Buildings and Conservation Areas) Act 1990 as revised where the Act requires the need to pay special regard to the preservation of listed buildings and their settings.

We had also previously noted that additionally as the proposed development is within a primarily rural context and would be read against a largely rural landscape, this type of development could have a significant impact on the landscape character of the area.

With this full application now submitted, a Heritage Impact Assessment has been prepared to address the requirements of paragraph 189 of the NPPF as well as local policy MD13 where this is acknowledged and where this describes the proposed executive lodge building, its positioning within the immediate and wider setting of Netley Old Hall and refers to the position of another listed building to the south-east of the property, Netley Hall.

The HIA describes the proposed holiday lodge as a visually contemporary complex which incorporates intersecting pitched roofs and which uses projection and recession to create an organic assembly in a subdued and low-slung form. The HIA notes the positioning of this recreational type building will use the stepped land and be nestled into the corner of the manmade lake which were created here and which form the immediate landscape of this area to the east and north-east of the Old Hall. The HIA concludes that the building has been designed in a form and location which would be discreet in this landscape and while the proposal will incur some change within the setting of the listed buildings this does not constitute harm which would render it unacceptable.

In the main we do not disagree with this conclusion however there are some issues which haven't been fully addressed with this application and which require some further consideration.

The plans submitted are relatively basic elevational drawings which do not fully illustrate what the proposed lodge will look like within this lakeside position there are no materials or finishes indicated on the plans however the application form notes these will be facing brick, rendered blockwork and metal composite roofing with much glazing. For a lakeside recreational lodge type building these do not seem to be the appropriate materials to create a discreet and benign low key building within this landscape and could result in a building which would compete with and dominate the landscape and with the heritage buildings nearby. It is suggested that more natural materials and recessive finishes more likely found in this type of lakeside position would result in a less dramatic and bold building which should be avoided here. To keep the building low-slung as described, the high chimney features are also recommended to be removed. Further information on landscape screening is also necessary in the form of a landscape plan where this screening should also appear natural within this setting.

Should the application be approved in this or a revised form we recommend that conditions are added to fully agree external materials and finishes and landscaping and surface finishes for driveway areas are also agreed.

4.3 **SUDS- no objection** informatives only

4.4 **SC Highways- no objection**

From a highways perspective it is considered that the addition of a single holiday let would be unlikely to significantly impact on the surrounding highway network. The proposed new access is internal to the site.

4.5 **Affordable Housing- no objection**

4.6 **Trees- no objection**

The site is in a secluded location within a rural area with a reasonable level of tree cover. Although there is the potential to impact on the trees adjacent to the pond when creating the access drive, this is unlikely to have any significant impact on the wider amenity of the area and no objection is raised to the proposal.

4.7 **Ecology- objection**

A planning application on this site must be accompanied by an Ecological Impact Assessment of the land in and surrounding the proposed development and a discussion of any potential impacts resulting from the development.

4.8 **Shropshire Fire and Rescue- no objection**

Standard advice only

4.9 **Public Comments- none received**

A site notice has been posted on 16 March 2020

The planning application is scheduled to be advertised in the Shropshire Star as a departure from Policy on 14 July 2020

5.0 **THE MAIN ISSUES**

Principle of development

Historic Environment

Visual impact and landscaping

Ecology

6.0 **OFFICER APPRAISAL**

6.1 **Principle of development**

6.1.1 The NPPF seeks to build a strong, competitive economy, and in particular a prosperous rural economy at Para 83, which includes sustainable rural tourism and

leisure developments which respect the character of the countryside.

- 6.1.2 The NPPF also seeks to conserve and enhance the natural environment (Chapter 15) and the historic environment (Chapter 16).
- 6.1.3 CS5 states development proposals on appropriate sites which maintain and enhance countryside vitality and character will be permitted where they improve the sustainability of rural communities by bringing local economic and community benefits.
- 6.1.4 CS16 seeks to deliver high quality, sustainable tourism and cultural and leisure development.
- 6.1.5 CS5 and CS16 do not rule out new build tourist related development but otherwise place a very strong emphasis on the conversion/replacement/re-use of suitable buildings in the countryside. New build development is generally limited to that which is required for community uses, infrastructure, agricultural development and/or essential rural occupational dwellings.
- 6.1.6 MD11 deals with development which is not related to a conversion. It states:
Holiday let development that does not conform to the legal definition of a caravan, and is not related to the conversion of existing appropriate rural buildings, will be resisted in the countryside following the approach to open market residential development in the countryside under Policy CS5 and MD7
- 6.1.7 MD11 therefore offers some scope in the countryside for caravan type development, or structures falling within the definition of a caravan.
- 6.1.8 There is no policy provision in either CS5, CS16, MD7 or MD11 for new build holiday development of the scale proposed in the countryside, hence the reason why the application has been advertised in the Shropshire Star as a policy departure.
- 6.1.9 CS5 also states that development proposals may be supported where they relate to:
Sustainable rural tourism and leisure and recreation proposals which require a countryside location, in accordance with CS16 and CS17.
- 6.1.10 Although CS16 is not as explicit in its requirements, proposals must be of an appropriate scale and character for their surroundings, be close to or within settlements, or an established and viable tourism enterprise where accommodation is required. Where possible, existing buildings should be re-used.
- 6.1.11 MD11 also states tourism, leisure and recreation development proposals that

require a countryside location will be permitted where the proposal complements the character and qualities of the site's immediate surroundings.

- 6.1.12 Since the business plan for the holiday lodge relies heavily on group cookery events and professional chef tuition, the proposal does not in itself require a countryside location. The proposal would plainly attract visitors for its countryside setting, but the desirable location for guests is not essential for its given purpose.
- 6.1.13 Small scale farm diversification is an example where new development for tourism may be supported by CS5. Such development is typically reversible, eg changes in use of land or buildings, or the erection of glamping pods or small chalets. However there is a presumption against permanent new build development for tourism in the countryside especially where it is larger scale and not supporting an existing farm business. Rather, for tourist development, CS5 places strong emphasis on the:

Conversion of rural buildings which take account of and make a positive contribution to the character of the buildings and the countryside

- 6.1.14 To the limited extent further accommodation is required to support the existing wedding business, it is noted in particular, this is essentially a separate holiday let business proposition, marketed for a different customer set. Plainly there may be some crossover, but that does not justify new development of this type in a countryside location, particularly where there are heritage impacts to mitigate. The proposal takes advantage of its countryside setting, but that setting is in itself not a requirement. By definition according to CS5, countryside development is harmful unless it falls into the exception criteria listed in CS5. In turn, proposals must also satisfy the requirements of CS16 and CS17.
- 6.1.15 The applicant has been asked to clarify why existing buildings in the group of historic buildings around Netley Old Hall Farm would not suffice, in order to bring alignment with CS5 and CS16 in terms of re-use/conversion. They are illustrated in the submitted location plan as Longmynd Barn, Caradoc Barn, Ragleth and Wrekin Barn. They are within the blue boundary line of the location plan which defines land under the control of the applicant. Yet in the planning statement (Para 2) the application states "the listed former farmhouse and surrounding buildings are used for a mixture of business and residential uses which are not under the ownership of the applicant". It is not fully understood why existing buildings cannot be re-used or converted as an alternative.
- 6.1.16 A business plan has been provided which forecasts a build cost of @£580,000 (including CIL fees). Turnover is predicted @£200,000/year, and the new build lodge (and associated costs) to have effectively paid for itself after 10 years. This is based on £750 per night and an occupancy rate of 60% over the year.
- 6.1.17 Further information has been provided which emphasises the success of the lakeside lodge (2006 planning permission). The lakeside lodge has a 90%

occupancy rate and the ability to arrive by helicopter using an on-site helipad is an added draw. On that account, the business plan states the predicted 60% occupancy rate for the proposed lodge is a “conservative occupancy rate”. If the success of the lakeside lodge is partly due to the existence of a helicopter pad, one could reasonably expect holiday lodge guests and chef to arrive by helicopter also.

- 6.1.18 The case officer takes the view that even if forecast income proves to be correct, there remains the fundamental issue over establishing the principle of development.
- 6.1.19 There remains a risk that if the development does not reach predicted returns, the development would effectively become a new build dwelling in a countryside location, which is currently contrary to the Council’s settlement strategy as per CS1, CS5 MD1 and MD7a. The holiday let lodge would be conditioned to limit its use for holiday lets only. Unlike small farm diversification schemes where development land can more easily be reinstated where holiday accommodation is through the stationing of structures which meet the definition of a caravan, the proposed holiday lodge is of a built form unlikely to be demolished should the business fail or not meet expectations, and for which an alternative use will be sought. The lodge would not lend itself to becoming an affordable dwelling, due to location, size, form and layout, which would otherwise in principle be the only policy complaint alternative in the Council’s current settlement strategy for residential development.
- 6.1.20 Taking all matters above into consideration, it is not considered the principle of development is established.

6.2 Historic Environment

- 6.2.1 CS17 and MD13 together seek to ensure Shropshire’s heritage assets will be protected, conserved, sympathetically enhanced and restored.
- 6.2.2 A heritage impact assessment has been submitted which concludes the proposal will incur some change within the setting of Netley Old Hall but it does not constitute harm which would render it unacceptable in terms of the NPPF.
- 6.2.3 The Conservation Officer has stated in the main she does not disagree with this conclusion. However the Conservation Officer also adds that the proposed development is within a primarily rural context and would be read against a largely rural landscape. Accordingly, this type of development could have a significant impact on the landscape character of the area, which would amount to less than substantial harm. With that in mind the Conservation Officer points out there are some issues which have not been addressed.
- Concerns have been raised:
- Elevation drawings are basic and do not fully illustrate what the proposed lodge will look like within the lakeside position.
 - Facing brick, rendered blockwork, rendered composite roofing, much glazing could result in a building which would compete with and dominate

- ☞ the landscape and with the heritage buildings nearby
- ☞ Chimney features should also be removed to keep the building low-slung.

Further landscaping is required.

6.2.4 Section 66 of the Planning (Listed Buildings and Conservation Areas) Act 1990 as revised where the Act requires the need to pay special regard to the preservation of listed buildings and their settings. On balance the proposal is found contrary this requirement, resulting in less than substantial harm with no sufficient public benefit to weigh against that harm in the context of paragraph 196 to the NPPF and to Development Plan policies CS6, MD2, CS17 and MD13, due to its substantial built form and setting impact on the historic environment.

6.3 Visual impact and landscaping

6.3.1 The lodge is to be @8.5m high, with the top of the chimney extending 1m above. Notwithstanding the comments of the Conservation Officer above, there will be limited visual impact in its wider setting, at least from public locations. Marginal glimpses of the roof of the building may be possible from the public road, but against the context of larger buildings in the vicinity, harm will be limited. There are two footpaths passing to the NW and NE, (70-80m) though harm will be limited, particularly due to tall leylandii type screen on the site boundary and groups of other buildings in the vicinity.

6.3.2 As regards potential wider landscape impacts, it should be noted a Landscape and Visual Impact Assessment (LVIA) was carried out in respect of the 15 lodges and permanent event/function building approved to replace the marquee (18/00246/FUL). The LVIA concluded some, but insufficient harm to warrant refusal on landscape impact grounds. Compared to the event/function building, the holiday let lodge is less prominent. Accordingly, wider landscape impacts are not considered significant. Nevertheless, according to CS5, development should maintain and enhance countryside vitality and character. CS17, MD12, MD13 also seek similar enhancements wherever possible which are considered especially important in this countryside and historic setting. The proposed development fails to provide any enhancement of its context.

6.4 Ecology

6.4.1 The application is not supported by an ecology impact assessment, contrary to the consultation comments of the Council's ecologist as set out above. However, the case officer again refers to the earlier application for the permanent event/function building ref 18/00246/FUL. That application was supported by an ecology impact assessment dated January 2018, which, within its scope, covered the site of this holiday lodge application. The Council's ecologist agreed in that case that permission could be granted for 18/00246/FUL, subject to conditions and informatives. It is noted the lakes are stocked with fish and are unlikely to contain Great Crested Newts. It is therefore concluded that in respect of ecology issues, the absence of an ecology impact assessment should not constitute a reason for refusal. Evidence from the previous ecology impact assessment suggests no

conflict with CS17 and MD12.

7.0 CONCLUSION

7.1 It is acknowledged that the holiday let lodge proposed would make a small contribution to the economic objective of sustainable development through the users support of the rural economy. However, it would be a permanent and substantial new build development contrary to the adopted Core Strategy, in particular the presumptions of CS5, CS16 which seek to focus tourist related development on the re-use of existing buildings. The development is contrary to MD11 of the adopted SAMDev Plan, which limits new holiday accommodation development to either caravans or the conversion of appropriate rural buildings. The proposed development, by reason of its substantial built form and impact on the setting of heritage assets would fail to make a positive contribution to the character of its setting and the countryside contrary to the environmental objective of sustainable development set out in the National Planning Policy Framework and Development Plan policies, CS5, CS6, CS17, MD2 and MD13.

7.2 To the extent the existing wedding business is considered rural diversification, the requirement for provision of new, additional accommodation has not been fully justified. The development does not sufficiently relate to an established and viable tourism enterprise in the countryside where accommodation is required, contrary to CS16 and MD11.

7.3 Being contrary to the provisions of CS5, CS16 and MD11, the proposed development is effectively new residential development in the countryside, contrary to the Council's settlement strategy and policies CS5, MD1, CS1, MD3, and MD7a

7.4 There are considered to be no other material considerations of sufficient weight to justify a departure from the adopted Development Plan in this case.

8.0 Risk Assessment and Opportunities Appraisal

8.1 Risk Management

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

As with any planning decision the applicant has a right of appeal if they disagree with the decision and/or the imposition of conditions. Costs can be awarded irrespective of the mechanism for hearing the appeal, i.e. written representations, hearing or inquiry.

The decision may be challenged by way of a Judicial Review by a third party. The courts become involved when there is a misinterpretation or misapplication of policy or some breach of the rules of procedure or the principles of natural justice. However their role is to review the way the authorities reach decisions, rather than to make a decision on the planning

issues themselves, although they will interfere where the decision is so unreasonable as to be irrational or perverse. Therefore they are concerned with the legality of the decision, not its planning merits. A challenge by way of Judicial Review must be made a) promptly and b) in any event not later than six weeks after the grounds to make the claim first arose.

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

8.2 Human Rights

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

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

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

8.3 Equalities

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

9.0 Financial Implications

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

10. Background

Relevant Planning Policies

Central Government Guidance:
National Planning Policy Framework
National Planning Practice Guidance

Shropshire Core Strategy and SAMDev Plan Policies:

- CS1 Strategic Approach
- CS5 Countryside and Green Belt
- CS6 Sustainable Design and Development Principles
- CS13 Economic Development, Enterprise and Employment
- CS16 Tourism, Culture and Leisure
- CS17 Environmental Networks
- CS18 Sustainable Water Management
- MD1 Scale and Distribution of Development
- MD2 Sustainable Design
- MD7a Managing Housing Development in the Countryside
- MD7b General Management of Development in the Countryside
- MD11 Tourism Facilities and Visitor Accommodation
- MD12 The Natural Environment
- MD13 The Historic Environment

RELEVANT PLANNING HISTORY:

19/05115/OUT Outline application for the erection of 1No executive holiday lodge (to include access) WDN 24th January 2020

11. Additional Information

View details online: <https://pa.shropshire.gov.uk/online-applications/simpleSearchResults.do?action=firstPage>

<p>List of Background Papers (This MUST be completed for all reports, but does not include items containing exempt or confidential information)</p> <p>Heritage Impact Assessment</p> <p>Planning, Design and Access Statement</p>
<p>Cabinet Member (Portfolio Holder)</p> <p>Councillor Gwilym Butler</p>
<p>Local Member</p> <p>Cllr Dan Morris</p>

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Committee and date

Southern Planning Committee

28 July 2020

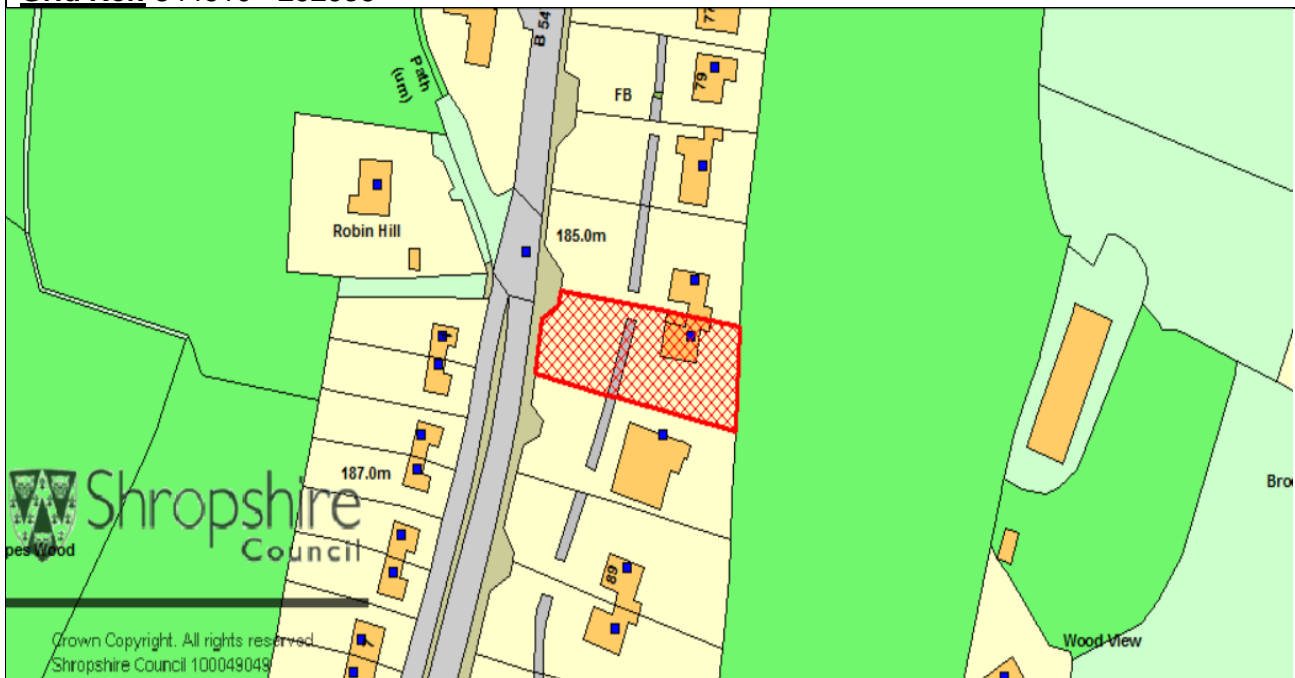
Development Management Report

Responsible Officer: Tim Rogers
 email: tim.rogers@shropshire.gov.uk Tel: 01743 258773 Fax: 01743 252619

Summary of Application

<u>Application Number:</u> 20/01847/FUL	<u>Parish:</u>	Church Stretton
<u>Proposal:</u> Erection of replacement dwelling and alterations, including erection of detached annex and construction of garden bridge.		
<u>Site Address:</u> Crimond 85 Ludlow Road Church Stretton SY6 6RA		
<u>Applicant:</u> Mr B Gardiner		
<u>Case Officer:</u> Helen Tipton	<u>email:</u> planning.southern@shropshire.gov.uk	

Grid Ref: 344610 - 292936



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Recommendation:- Grant Permission subject to the conditions set out in Appendix 1.

REPORT**1.0 THE PROPOSAL**

- 1.1 The application seeks planning permission for the erection of a replacement dwelling and alterations, including the erection of a detached annex and construction of a garden bridge.
- 1.2 The proposed dwelling would incorporate additional annex accommodation on the ground floor, although this would not be independent of the main living quarters. Other works referred to in the supporting documentation provided, including the formation of a parking area have not been put forward for consideration under the scheme since the applicant has advised that the works would fall within existing 'permitted development rights' associated with the current property.
- 1.3 The ground floor of the dwelling would provide a kitchen-dining room, living room and conservatory, together with a single room described as an annex, off which would be a small kitchen area and an en-suite shower room. The proposed first floor accommodation, contained partly within the roof space, would provide three bedrooms (one with en-suite) and a bathroom. The external facing materials would be a mix of facing brick, render and timber cladding, with the areas of glazing on the west elevation (facing the road) being linked by the timber cladding and including a glazed area extending up above one of the first floor windows into the roof apex. The east (rear elevation facing the woodland) would have the same combination of materials, but less first floor glazing and would have a section of roof with a ridge height lower than that of the front portion of the building. The north elevation would take the form of a roof plane containing rooflights, with a section extending downwards in the form of a catslide whose eaves would match the height of the adjacent garage of the neighbouring property. The south side elevation would have a full two storey appearance for much of its bulk, with the main roof plane taking the form of a solar roof. The lower section of the dwelling towards the rear would be a conservatory, with glazing extending up to the eaves level of the highest roof section, along with additional solar panels and an area of clay roof tiles. There would be a chimney off set from the ridge line. A realignment of the retaining wall to the rear of the existing dwelling would be needed to accommodate the proposed replacement.
- 1.4 The proposed detached annex building that would be sited in the south eastern rear corner of the site would be single storey with a flat sedum roof, and timber clad walls on a low brick skirt. It would be set partly into the sloping ground and would contain a combined kitchen and living room area, a bedroom and an en-suite shower room.
- 1.5 A new pedestrian bridge would be provided over the watercourse that flows through the site.

2.0 SITE LOCATION/DESCRIPTION

- 2.1 The development is proposed to replace an existing dwelling on the site known as 'Crimond' (number 85), which is located to the east of Ludlow Road, leading between Church Stretton Town and the village of Little Stretton.
- 2.2 The property, built in the 1960's currently consists of a brick and white uPVC clad single-storey, two-bedroom bungalow beneath a concrete tile roof and with an attached garage. It is situated along the southern fringes of Church Stretton Town and is set back in the plot, close to Brockhurst Wood, an area of Ancient and Semi-natural Woodland, which is also protected by a Tree Preservation Order. Meanwhile a watercourse runs south / north and divides the amenity space. The property is located outside of the town's conservation area, although it is wholly within the Shropshire Hills Area of Outstanding Natural Beauty, (AONB).
- 2.3 The dwelling is sited closest to the northern boundary and to a neighbouring bungalow at this side, whilst a larger residential dwelling also stands further away, to the south. The gardens and grounds reach, mainly forward of the existing building, although they also extend to the east / rear, before meeting with the foot of the woodland.

3.0 REASON FOR COMMITTEE DETERMINATION OF APPLICATION

- 3.1 The Town Council have objected to the application and the Local Member has requested the application is taken to the Planning Regulatory Committee. The Chair and Vice Chair of the South Planning , in consultation with the Principal Officer consider that the material planning considerations in this case require consideration by Committee, as set out in Part 8 of the Shropshire Council Constitution.

4.0 Community Representations

4.1 Consultee Comments

4.1.1 Shropshire Council Trees – objection.

12 June 2020 – objection.

In principle the Council's Tree Team have no objection to some form of proportionate renovation / extension of the dwelling at 85 Ludlow Road, but for the following reasons we are recommending refusal of this application as proposed:

Brockhurst Wood, which lies on higher ground, to the east of the site, is an ancient woodland site (ASNW). This irreplaceable natural asset is protected by a Tree Preservation Order. There are further ancient woodland and a Site of Special Scientific Interest (SSSI) less than 200 metres to the west and an ASNW site within 600 metres to the east. As a result, not only is the site important habitat in its own right, but it is doubly so as part of a mosaic of other important ecological habitat and landscape sites / features in the surrounding area.

The original development of the buildings along Ludlow Road introduced domestic dwellings close to mature woodland growing on a steep bank with shallow soils. From an arboricultural and habitat perspective the development was poor and would not sit well with current good practice and sustainable development principles. In recent years the Shropshire Council Tree Team have been contacted by a number of residents adjacent to this woodland with concerns in relation to the proximity of large woodland trees effecting the enjoyment of their property. It is neither sustainable nor good practice to encourage or support development that has potential to exacerbate such concerns, especially when the site is large enough to accommodate a new development without introducing the footprint of the new dwelling and associated ancillary buildings further east than the existing property footprint.

National and local policies for sustainable development clearly put weight not just on how a development looks but also on how it functions its relationship to the wider area. Section 4.7 of the submitted ecological assessment gives an immediate response to the effects of the development on trees and Section 5 suggests that “no significant impacts on features of natural conservation value are predicted”. But the report does not take account of guidance on good practice set out in the Government’s and Woodland Trust’s guidance on development and ancient woodland, which clearly seek to distance one from the other through the provision of buffer zones. The concept of maintaining the maximum possible buffer zone at this site is particularly relevant in order that a sustainable development is achieved but also to ensure that development at this site sets a positive rather than detrimental precedent for any future development proposals along Ludlow Road.

Given the importance of the woodland, not just now but for its future dynamics of growth decline and structural change, the Tree Team are recommending refusal because the application introduces occupied or high value structures closer to the woodland than the eastern extent of the existing foundations of the current dwelling. The Tree Team consider this to be contrary to local and national aspirations for sustainable development because it exacerbates the potential for conflict between future occupants and the neighbouring irreplaceable woodland habitat, with the likely degradation of that habitat and its contribution to local amenity without being able to offer any form of compensation or realistic mitigation of that impact and without addressing the principles behind SAMDev Policy MD12 by providing evidence that the benefits of the development clearly outweigh the value of the asset being affected.

On the basis that the Tree Team are unable to offer support for this application we are not recommending conditions, however if after consideration the Case Officer concludes that it is expedient to proceed with this application as presented then the Tree Team would be happy to recommend conditions at that time.

13 July 2020 – objection.

The Council’s Tree Team maintain the comments and observations submitted in their consultee comments dated 12th June 2020 (and in their consultee comments on pre-application enquiry reference PREAPP/20/00078) which stated that:

The Tree Team would recommend refusal for an application that introduced, occupied or provided high value structures closer to the woodland than the eastern extent of the foundations of the current dwelling but for further information and clarity add the following:

The issues at this site stem not from whether the applicant can excavate to the boundary / woodland edge without effecting the existing trees directly, but how the development and outbuildings, once constructed, would then sit in relation to the woodland and the potential for future proximity issues to have a detrimental effect on the woodland and vice versa.

This is a question of long-term sustainability constraints. Putting a new domestic development and high value targets close to the woodland (ASNW) is inviting problems for the future, especially when there are already well established concerns being expressed by many residents of Ludlow Road in relation to the woodland. As such the Tree Teams objection to the layout of the main building and the outbuildings remains as given in previous consultee comments.

Ancient Semi-Natural Woodlands (ANSW) are of value because of their long-standing in the landscape, over which time they have been subject to incremental changes over hundreds of years in structure, species and a range of dynamic interactions between them and the surrounding landscape / land use / weather patterns and a host of other variables. It has been identified in government guidance and academic research that unsympathetic development that results in immediate or potential future proximity related issues can affect those natural dynamic interactions with considerable potential to detract from the long-term value and quality of and ongoing development of ASNW sites.

There is a wealth of government guidance stating the importance of Ancient Woodland as an irreplaceable priority habitat and of its role as key features in Environmental networks / green infrastructure and the Landscape. These values are replicated through local guidance given in The Shropshire Council Natural Environment Guidance Note 11, Environmental Networks policies MD2 & MD12 of the SAMDev Plan and Core Strategy Policies CS6 & CS17 the underlying principles of which are derived from the National Planning Policy Framework (NPPF) and the commitments made in the Governments 25 year plan for the environment, which in relation to planning applications seeks to establish the principle of biodiversity net gain through, amongst other things, sustainable development. Some evidence of which can be taken from the following:

Government Policy on Ancient Woodland - Keepers of time and place: England's ancient woodlands and trees represent a living cultural heritage, a natural equivalent to our great churches and castles. They are also our richest wildlife habitat and are highly valued by people as places of tranquillity and inspiration. NPPF Section 170, NPPF 175 (c), the governments standing guidance on protecting ancient woodland from development, (Also Section 114 of SAMDev MD12).

<https://www.gov.uk/guidance/natural-environment> : Government guidance on the natural environment suggests that planning authorities need to consider the opportunities that individual development proposals may provide to conserve and enhance biodiversity and geodiversity and contribute to habitat connectivity in the wider area (including as part of the Nature Recovery Network).

4.1.2 Shropshire Council Drainage – comment.

The applicant proposes to connect the proposed surface water drainage into the existing main surface water sewer. Drainage calculations should be provided to limit the discharge rate from the site equivalent to 5.0 l/s runoff rate. The attenuation drainage system should be designed so that storm events of up to 1 in 100 year + 35% for climate change will not cause flooding of any property either within the proposed development or to any others in the vicinity.

A condition is recommended in relation to surface and foul water drainage and informative comments are provided regarding urban creep.

4.1.3 Shropshire Hills AONB – comment.

The Shropshire Hills AONB Partnership is a non-statutory consultee and does not have a role to study the detail of all planning applications affecting the AONB. With or without advice from the AONB Partnership, the planning authority has a legal duty to take into account the purposes of the AONB designation in making this decision, and should take account of planning policies which protect the AONB, and the statutory AONB Management Plan.

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

4.1.4 Shropshire Council Affordable Housing – no objection.

There are no affordable housing obligations associated with this proposal.

4.1.5 Shropshire Council Highways – no objection.

The application site was subject to a pre-application enquiry where no objection was raised from a transport or highways perspective. The access remains unaltered and there is an increase in parking spaces from the current number, which is acceptable.

4.1.6 Shropshire Council Ecology – comment.

Following receipt of an Ecological Impact Assessment and Preliminary Roost Assessment for Bats, (conducted by Eco Tech and dated April 2020), it was recommended that the installation of a bat and bird box would enhance the site for wildlife by providing additional roosting or nesting opportunities for declining species.

A condition in this regard is therefore provided whilst informative comments relating to general wildlife protection are also provided in the officer's report.

4.1.7 Severn Trent Water – no comment.

4.1.8 Church Stretton Town Council – objection.

As shown by the Environment Agency the flood zone plans do not indicate a serious flood risk at this site, so the remodelling of the levels would not present a major problem.

It is accepted that a rebuild on this site is sensible to achieve an updated and energy efficient property. Any new build should 'respect, maintain and enhance local distinctiveness and character' and be appropriate in scale, density and design so as not to be incongruous in the street scene. In the AONB it should also be sympathetic to the surrounding landscape and setting, including its proximity to the nearby ancient woodland.

The properties to the east side of Ludlow Road comprise bungalows of varying designs. The Town Council considers the proposed dwelling is not appropriate in scale or design in relation to the neighbouring properties and would have an overbearing impact on them.

Considering the floor plans closely, the house itself is in fact 2 units as the internal annex is self-contained with a bed/sitting room, bathroom and kitchen. With the garden room, this site would therefore contain three residential units in total which it is felt is excessive.

The overall form of the proposed new build is ill proportioned as an entity, as well as when viewed alongside adjacent bungalows. The west and south elevations would present a confused mix of extensive fenestration, vertical and horizontal cladding and render, with a confusing mix of roof slopes. The overall effect would appear overwhelming on the street scene. There would be afternoon overshadowing of the neighbouring property to the north.

When considering roofing materials, these should be in keeping with those used in the area and should be non-reflective. Photovoltaic tiles are preferred to solar panels.

Care should be taken with hard standing. All surfaces should be made of permeable materials.

The brook should not be diverted or blocked at any time.

If a garden room is to be built it should not encroach on the neighbouring property. It should only be used in connection with and ancillary to, the enjoyment of the proposed main dwelling. At no time should it be occupied as a separate dwelling or used for commercial purposes.

It is noted that a Certificate A declaration has been made on the application form but at the same time a Certificate B has been lodged, this is confusing.

4.2

Public Comments

4.2.1

This application was advertised via notice at the site and four neighbouring properties were notified by letter, on 21 May 2020.

A total of thirteen representations have been received, including the All Stretton Civic Society, which are summarised as follows:-

11 letters of objection received:

- ☐ Scale and design and its impact on the street scene and AONB;
- ☐ Residential amenity impacts, including building off party wall, privacy impacts and overshadowing;
- Are existing foundations capable of carrying additional load;

- ☐ Roof lights should be fixed and obscure glazed;
- ☐ Parking insufficient to accommodate larger dwelling / impact on highway; Impact on adjacent woodland;
- ☐ Deeds state no separate building should be erected to provide additional sleeping arrangements; Drainage and wildlife concerns

2 letters of support received:

- ☐ Appearance acceptable
- ☐ Energy efficiency measures would be incorporated

5.0 THE MAIN ISSUES

Principle of development
 Affordable Housing Contribution
 Siting and design
 Scale and visual impact
 Residential amenity
 Drainage
 Ecology
 Highways
 Other matters

6.0 OFFICER APPRAISAL

6.1 Principle of development

6.1.1 Both national and local planning policies concentrate new residential development to locations which promote economic, social and environmental sustainability. Specifically, the Council’s Core Strategy Policies CS1, CS3, CS4, CS5 and CS11 seek to steer new open-market housing to sites within market towns, other ‘key centres’ and certain named villages, (referred to as ‘Community Hubs and Clusters’). These are identified in the Councils adopted Site Allocations and Management of Development (SAMDev) Plan.

6.1.2 Core Strategy Policy CS3 recognises Church Stretton Town as one of Shropshire’s larger, ‘sustainable’ settlements and SAMDev Policy S5 sets a guideline of approximately 370 additional houses to be provided in the town throughout the period 2006-2026, on allocated land plus ‘windfall’ sites within a predefined development boundary. (It should be noted that the Council’s 5 year land supply currently has a total of 312 housing completions and commitments between the period from 2006 to 31 March 2019).

6.1.3 The site proposed for development is a plot which already contains an occupied dwelling and the scheme would see this replaced with the proposed dwelling. The site is situated in an established residential area within the development boundary of Church Stretton Town and so, in principle the erection of a new open market dwelling at this site would be acceptable.

6.2 Affordable Housing Contribution

- 6.2.1 A revised version of the National Planning Policy Framework, (NPPF), published in February 2019 states, (at paragraph 63) that affordable housing provision should not be sought in connection with small scale open market developments. In the circumstances it would be accepted that no affordable housing payment would be required in this case.

6.3 Siting and Design

- 6.3.1 Core Strategy Policy CS6 encourages innovative design of new developments and promotes energy efficiency and design which mitigates and adapts to climate change. It also expects design to be of a high quality and be appropriate in scale, density, pattern and design, taking into account the local context and character. Meanwhile SAMDev Policy MD2 seeks to reinforce local distinctiveness by consideration of building forms, scale, heights, layout, density, plot sizes and how development functions in its relationship with the wider area.
- 6.3.2 Although the building would have a contemporary feel, the angular roof formations and external materials would be reminiscent of a bygone era and reflect the general vernacular of the area, particularly when viewing the property from the road. The proposed timber cladding would reflect the rustic woodland behind it and the orientation and function of the building would be designed, in part, with energy efficiency in mind. As such a solar roof is proposed to the south elevation; the precise details of which would be controlled by way of condition, along with precise details of material colour / finishes.
- 6.3.3 In relation to the outbuilding / detached annex, the low level of the building, coupled with its appearance and discreet position, to the south eastern corner of the site, would ensure it is subservient to the house and would not be prominent against its leafy setting.

6.4 Scale and visual impact

- 6.4.1 Despite the proposed building being taller, to provide a first floor and larger in footprint than the existing dwelling, the size of the plot would be more than capable of accommodating it. The house would utilise the existing footprint and despite also reaching beyond it, the development would extend mainly rearwards without overwhelming the surrounding built development or affecting the street scene. Other dwellings in the vicinity have also been developed over time and whilst the proposed application would see a new, two-storey dwelling in the locality, it would not be visually intrusive or a dominant addition in comparison to others around it.
- 6.4.2 The applicant has confirmed that the detached annex and additional living accommodation within the house is intended for extended family and dependants to stay. This includes two close relatives who are on the verge of requiring home care. It is noted that the internal annex area proposed within the house will not be separate from the main living accommodation, although a condition is attached in this regard and in regard to the proposed detached annex.

- 6.4.3 The rear woodland, retained roadside hedgerow and topography of the site would also conceal the development from views further afield, ensuring the Shropshire Hills AONB remains conserved. The land gradient to the east and west would further prevent the scheme from being an imposing addition in the landscape.
- 6.4.4 As aforementioned, the rear woodland is undoubtedly important to the setting as well as being valuable in its own right under a Tree Preservation Order and SAMDev Policy MD12 attaches great weight to conserving and enhancing the natural beauty of the Shropshire Hills AONB and to, amongst others, Ancient Woodland. By bringing residential development closer to the woodland, there may be a future pressure to have trees removed. However, it is understood that emergency tree work has been previously undertaken to safeguard an overhead electricity line, which sits higher and closer to the woodland than the proposed development. It is also acknowledged that the applicant can undertake reasonable work within the domestic curtilage under current permitted development rights associated with the existing dwelling and that such work has been carried out closer to the root protection areas of the nearby trees than is proposed under the development scheme. It is therefore considered that the proposed level of work would not threaten the woodland to any greater degree, although a condition is attached in the officer's report in order to control future permitted development rights associated with the new development, which may also give some additional protection to the adjacent woodland.
- 6.4.5 Although some planting and hard landscaping proposals have been provided with the application, further details would be necessary and so a landscaping condition is included in the officer's report.

6.5 Residential Amenity

- 6.5.1 The current dwelling is already positioned in close proximity to the nearest neighbouring dwelling, to the north and whilst it is acknowledged that the new development would obviously be taller in stature than the existing dwelling on site, its roof formation would slope, considerably away from the adjacent property, limiting additional overshadowing. The elongated roof angle would ensure the proposed roof lights, to the north, would not overlook and so a condition for the roof lights to be obscure glazed would be unnecessary.
- 6.5.2 The majority of glazing is proposed to the south and so there could be a perception that the development would overlook at this side. Much of the proposed glazing would, however provide roof cover and the south upper floor windows proposed would look out above the roof of the neighbouring property to the south, rather than looking directly into adjacent windows. There is also, currently some natural screening along this boundary line. As mentioned at paragraph 6.4.5, a landscaping condition is attached, which will establish what boundary treatments are to remain in place and what additional planting is proposed.

6.6 Drainage

- 6.6.1 The scheme proposes to connect to the main sewer and the Council's Drainage Officer has raised no objection in principle. Although it is recognised there are

existing main connections on site, a condition is provided to ensure the proposed drainage is satisfactory. No issues have been raised specifically in terms of the watercourse, which runs through the amenity grounds.

6.7 Ecology

6.7.1 The Council is legally obliged to have regard to biodiversity when exercising any of its statutory functions. There was no evidence of breeding / nesting birds and no evidence of roosting bats found on site. However, in order to provide ecological enhancements for protected wildlife, a condition is attached in relation to the erection of at least one bat or bird box on site, as recommended in the submitted ecological report. It is noted the Council's Ecology team have no overriding concerns and considered the proposals to be satisfactory.

6.8 Highways

6.8.1 The scheme does not propose to alter the existing access and it is understood that additional parking facilities are being provided at the site, which is considered satisfactory by the Council's Highways Officer.

6.9 Other Matters

6.9.1 Restrictive covenants provided within the title deeds of a property would be a civil matter and not one for the Local Planning Authority to consider. In regard to the foundations, these would be overseen at the building control stage of development.

7.0 CONCLUSION

A new open-market replacement dwelling is acceptable in principle in this established residential location, which is also within the development boundary of a sustainable settlement. On balance, there would be no overriding harm to the character and appearance of the Shropshire Hills AONB, the local, built and natural environment or to residential amenity. There are also no undue concerns regarding drainage, ecology or highway safety and no affordable housing contribution would be required in this instance. The application is considered to accord with the principal determining criteria of the relevant development plan policies and approval is recommended, subject to conditions to control the critical aspects.

8.0 Risk Assessment and Opportunities Appraisal

8.1 Risk Management

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

As with any planning decision the applicant has a right of appeal if they disagree with the decision and/or the imposition of conditions. Costs can be awarded irrespective of the mechanism for hearing the appeal, i.e. written representations, hearing or inquiry.

The decision may be challenged by way of a Judicial Review by a third party. The courts become involved when there is a misinterpretation or misapplication of policy or some breach of the rules of procedure or the principles of natural justice.

However their role is to review the way the authorities reach decisions, rather than to make a decision on the planning issues themselves, although they will interfere where the decision is so unreasonable as to be irrational or perverse. Therefore they are concerned with the legality of the decision, not its planning merits. A challenge by way of Judicial Review must be made a) promptly and b) in any event not later than six weeks after the grounds to make the claim first arose.

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

8.2 Human Rights

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

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

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

8.3 Equalities

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

9.0 Financial Implications

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

10. Background

Relevant Planning Policies

Central Government Guidance:
National Planning Policy Framework

Shropshire Core Strategy and SAMDev Plan policies:
 CS1 - Strategic Approach
 CS3 - The Market Towns and Other Key Centres
 CS4 - Community Hubs and Community Clusters
 CS5 - Countryside and Greenbelt
 CS6 - Sustainable Design and Development Principles
 CS11 - Type and Affordability of housing
 CS17 - Environmental Networks
 CS18 - Sustainable Water Management
 MD2 - Sustainable Design
 MD12 - Natural Environment
 SPD Type and Affordability of Housing

RELEVANT PLANNING HISTORY:

None.

11. Additional Information

View details online:

<https://pa.shropshire.gov.uk/online-applications/applicationDetails.do?activeTab=details&keyVal=QA6I8JTDmia00>

List of Background Papers Design Statement Ecological Impact Assessment
Cabinet Member (Portfolio Holder) Councillor Gwilym Butler
Local Member Cllr. Lee Chapman Cllr David Evans
Appendices APPENDIX 1 - Conditions

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 and drawings.
Reason: For the avoidance of doubt and to ensure that the development is carried out in accordance with the approved plans and details.
3. Demolition, construction work and associated bulk deliveries shall not take place outside 7.30am - 6.00pm Monday to Friday and 8.00am - 1pm Saturdays, with no work taking place on Sundays, Bank or Public holidays.
Reason: To protect the amenities of occupiers of nearby properties from potential nuisance.

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

4. Prior to their use, samples/precise details of all external materials and their colour / finishes, including those proposed to the outbuilding / annex shall be submitted to and approved in writing by the local planning authority. The development shall be completed in accordance with the approved details and retained thereafter.
Reason: In the interests of visual amenity.
5. Following demolition of the existing dwelling, no ground works 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: To ensure satisfactory drainage of the site and to avoid flooding.
6. Prior to their erection, precise details of the proposed roof mounted solar array, including their dimensions,, form and appearance / finish shall be submitted to and approved in writing by the local planning authority, whilst within three months following the cessation of their use, the solar panels and any associated equipment shall be removed and the roof reinstated to its former condition.
Reason: In the interests of visual amenity.
7. Following demolition of the existing dwelling, no above ground works shall commence until there has been submitted to and approved in writing by the Local Planning Authority a scheme of landscaping, which shall include:
A survey of all existing trees and / or hedgerows on the site and along its boundaries
Identification and measures for the protection of existing trees and hedgerows which are to be retained
Details/schedules of proposed planting
Full details of the alignment, height and construction of any walls, fences, retaining structures or other boundary treatments/means of enclosure
Details/samples of hard surfacing materials
Timetables for implementation

The landscaping works shall be completed in accordance with the approved details. Thereafter all fences, walls, hardstandings and other hard landscaping features shall be retained in accordance with the approved details, whilst any trees or plants which, within a period of five years from the date of planting, die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species.

Reason: To ensure that the external appearance of the development is satisfactory and help ensure a reasonable standard of residential amenity.

8. Prior to the construction of any new retaining walls that are required to accommodate the replacement dwellings, details of their positioning, construction and appearance, together with any associated land regrading works, shall be submitted to and approved in writing by the Local Planning Authority. The work shall be carried out in accordance with the approved details.

Reason: To ensure that the retaining walls are adequate for their intended purpose and in the interests of the visual amenities of the area.

CONDITION(S) THAT ARE RELEVANT FOR THE LIFETIME OF THE DEVELOPMENT

9. The development hereby approved shall provide ecological enhancements in the form of at least one bat box and at least one bird box in a suitable location on the development site before the development is brought into use and shall be retained for the lifetime of the development.

Reason: To ensure the provision of roosting opportunities for bats and nesting opportunities for wild birds.

10. The annex accommodation hereby permitted shall only be used as additional residential accommodation in association with the dwelling on the site known as 85 Ludlow Road and no part of the building/s shall be sold or let separately or otherwise severed to form a separate, independent dwelling unit or commercial enterprise.

Reason: To define the permission for the avoidance of doubt. The application seeks to incorporate the residential use into the existing dwelling only and does not seek permission for a new dwelling or holiday accommodation which could give rise to different planning implications requiring further assessment by the Local Planning Authority.

11. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 2015 (or any order revoking and re-enacting that Order with or without modification), the following development shall not be undertaken without express planning permission first being obtained from the Local Planning Authority:-

- o Extensions;
- o Additions or alterations to the roof, including dormer windows and rooflights;
- o Erection of porches and outbuildings

Reason: To maintain the scale, appearance and character of the development and to safeguard visual and residential amenity.

Informatives

1. All bat species found in the U.K. are protected under the Habitats Directive 1992, The Conservation of Habitats and Species Regulations 2017 and the Wildlife and Countryside Act 1981 (as amended).

It is a criminal offence to kill, injure, capture or disturb a bat; and to damage, destroy or obstruct access to a bat roost. There is an unlimited fine and/or up to six months imprisonment for such offences.

If any evidence of bats is discovered at any stage then development works must immediately halt and an appropriately qualified and experienced ecologist and Natural England (0300 060 3900) contacted for advice on how to proceed. The Local Planning Authority should also be informed.

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

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

All conversion, renovation and demolition work in buildings or other suitable nesting habitat should be carried out outside of the bird nesting season which runs from March to August inclusive.

If it is necessary for work to commence in the nesting season then a pre-commencement inspection of the buildings for active bird nests should be carried out. If the building 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.

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

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

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

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

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

All building materials, rubble, bricks and soil must be stored off the ground, e.g. on pallets, in skips or in other suitable containers, to prevent their use as refuges by wildlife. Consideration should also be given to ensure debris does not enter the watercourse during construction work.

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

If a 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. Urban creep is the conversion of permeable surfaces to impermeable over time e.g. surfacing of front gardens to provide additional parking spaces, extensions to existing buildings, creation of large patio areas.
The appropriate allowance for urban creep must be included in the design of the drainage system over the lifetime of the proposed development. The allowances set out below must be applied to the impermeable area within the property curtilage:
Residential Dwellings per hectare Change allowance % of impermeable area
Less than 25 10
30 8
35 6

45 4

More than 50 2

Flats & apartments 0

Note: where the inclusion of the appropriate allowance would increase the total impermeable area to greater than 100%, 100% should be used as the maximum.

5. The applicant/developer is responsible for keeping the highway free from mud or other material arising from construction works.
6. This planning permission does not authorise the applicant to:
construct any means of access over the publicly maintained highway (including any footway or verge);
carry out any works within the publicly maintained highway;
authorise the laying of private apparatus within the confines of the public highway, including any a new utility connection; or
disturb any ground or structures supporting or abutting the publicly maintained highway.

Before carrying out any such works the developer must obtain a licence from Shropshire Council's Street Works Team. For further details see <https://www.shropshire.gov.uk/street-works/street-works-application-forms/>.

Please note that Shropshire Council requires at least three months' notice of the developer's intention to commence any works affecting the public highway, in order to allow time for the granting of the appropriate licence/permit and/or agreement of a specification and approved contractor for the works.

7. If alterations to the vehicular access or parking/turning areas would slope towards the public highway, surface water run-off should be intercepted and disposed of appropriately. It is not permissible for surface water to drain onto the public highway or into highway drains.
8. Before any new connection to the public mains sewer is made, including any indirect connection or reuse of an existing connection, consent from the service provider should be obtained.
9. Public sewers have statutory protection and cannot be built over or diverted without consent. In many cases where development is proposed within three metres of a public sewer, Severn Trent Water can direct the building control officer to decline an approval under the Building Regulations. You are therefore advised to discuss the proposals with Severn Trent Water at an early opportunity.
10. This development may be liable to a payment under the Community Infrastructure Levy (CIL) which was introduced by Shropshire Council with effect from 1st January 2012. For further information please contact the Council's CIL team (cil@shropshire.gov.uk).
11. The provisions of the Party Wall etc. Act 1996 apply in respect of this development and you are required to notify all neighbours affected by the proposal before any work commences on the site.

12. In arriving at this decision Shropshire Council has used its best endeavours to work with the applicant in a positive and proactive manner to secure an appropriate outcome as required in the National Planning Policy Framework, paragraph 38.

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SCHEDULE OF APPEALS AS AT COMMITTEE 28 July 220

LPA reference	18/04502/CPE
Appeal against	Refusal
Committee or Del. Decision	Delegated
Appellant	A Murray
Proposal	Application for a Lawful Development Certificate for continued residential use
Location	Application for a Lawful Development Certificate for continued residential use
Date of appeal	22.06.2020
Appeal method	Written Representations
Date site visit	
Date of appeal decision	
Costs awarded	
Appeal decision	

LPA reference	19/03997/LBC
Appeal against	Refusal
Committee or Del. Decision	Committee
Appellant	Mr D Price
Proposal	Conversion of and alterations to public house/inn to form two dwellings (including demolition of rear extensions); conversion of and alterations to holiday accommodation block to form one dwelling (including demolition of rear extension)
Location	Boars Head Hotel Church Street Bishops Castle SY9 5AE
Date of appeal	09/07/2020
Appeal method	Written representations
Date site visit	
Date of appeal decision	
Costs awarded	
Appeal decision	

LPA reference	19/03996/FUL
Appeal against	Refusal
Committee or Del. Decision	Committee
Appellant	Mr D Price
Proposal	Conversion of and alterations to public house/inn to form two dwellings (including demolition of rear extensions); conversion of and alterations to holiday accommodation block to form one dwelling (including demolition of rear extension); erection of one new dwelling
Location	Boars Head Hotel Church Street Bishops Castle
Date of appeal	10/07/20
Appeal method	Written representations
Date site visit	
Date of appeal decision	
Costs awarded	
Appeal decision	

LPA reference	19/01489/FUL
Appeal against	Refusal
Committee or Del. Decision	Delegated
Appellant	Mrs Sharon Oakley
Proposal	Erection of 3No self build detached dwellings and installation of package treatment plant
Location	Proposed Residential Development Land NE Of Corner Cottages Oreton Cleobury Mortimer Shropshire
Date of appeal	28.04.20
Appeal method	Written representations
Date site visit	23.06.2020
Date of appeal decision	15.07.20
Costs awarded	
Appeal decision	Dismissed

LPA reference	
Appeal against	
Committee or Del. Decision	
Appellant	
Proposal	
Location	
Date of appeal	
Appeal method	
Date site visit	
Date of appeal decision	
Costs awarded	
Appeal decision	



Appeal Decision

Site visit made on 23 June 2020

by **M Shrigley BSc (Hons) MPlan MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 15 July 2020

Appeal Ref: APP/L3245/W/20/3246734

Land opposite 3 Corner Cottages, Oreton, Cleobury Mortimer, Shropshire DY14 0TL

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
 - The appeal is made by Mrs Sharon Oakley against the decision of Shropshire Council.
 - The application Ref 19/01489/FUL, dated 1 April 2019, was refused by notice dated 16 January 2020.
 - The development proposed is 3 self-build dwellings with garages.
-

Decision

1. The appeal is dismissed.

Procedural Matter

2. Following the commencement of the appeal a signed Unilateral Undertaking (UU), which deals with self-build housing, has been received under Section 106 of the Town and Country Planning Act 1990. I will return to that matter later in my decision.

Main Issue

3. The effect of the development on the character and appearance of the area.

Reasons

4. The appeal site is a paddock within an open countryside location, featuring some modest outbuildings to one side. The landscape setting mainly comprises undeveloped undulating hills containing open fields and trees, interspersed with some residential properties and agricultural buildings. There is a small row of dwellings and a public house opposite the site access.
5. The land proposed to be developed is a flat area and occupies a much lower level than substantial parts of the adjacent highway which climbs a hillside. Owing to the considerable level differences evident the development would be highly visible from public approaches along the highway.
6. Whilst I appreciate that the design of the proposed dwellings would have a rustic appearance, the development would nevertheless introduce a considerable amount of built form and bulk to the landscape. In doing so the development would erode from the prevailing open undeveloped character of the area. I accept that from some vantages the development would be seen

against the large rock face present along the highway boundary, but despite that the presence of the development would still be prominent. The introduction of the proposed built form would be at odds with local landscape distinctiveness where natural undeveloped land areas dominate. The reduction in openness would be noticeable and harmful to the attractiveness of the landscape setting.

7. Therefore, I conclude that the development would be harmful to the character and appearance of the area. It would conflict with Shropshire Local Development Framework: Adopted Core Strategy (2011) Policies: CS4, which states that all development in Community Clusters is sympathetic to the character of the settlement; CS6 which supports high quality design and CS17 which seeks to protect and enhance local character and distinctiveness including the landscape. It would also conflict with the Council's Site Allocations and Management of Development (SAMdev) Plan 2015 Policies: MD2 which requires development to contribute to and respect local character; MD12 criterion 2 (viii) and (xi) which protect visual amenity and landscape character; and S6.2 (iii) which requires new development to have regard to its setting. As well as paragraphs 127 and 170 of the National Planning Policy Framework (the Framework) which seek that development adds to the overall quality of an area and recognises the intrinsic character and beauty of the countryside.

Other Matters

8. I note Oreton is a designated Community Cluster Settlement defined by SAMdev policy MD.1 and that SAMdev Policy S6.2 point (iii) allows for limited infilling of small, market priced houses on single plots immediately adjacent to existing development. However, the site is separated from the small enclave of other nearby dwellings by an intervening road. The development would also comprise of more than one plot. Therefore, the proposal would not be a form of limited infilling the SAMdev supports.
9. Although a small component of the overall site is occupied by outbuildings the remainder is an open field. Therefore, I give little weight to the proposal making use of previously developed land.
10. I acknowledge the provisions of the Self-Build Custom House Building Act 2015 (as amended), alongside paragraph 61 of the Framework which supports self-build and custom housebuilding, and that the development could provide this for the local community. I also acknowledge that the proposal does not seek to comprise of affordable housing, and I agree with the appellant that self-build proposals can include both affordable and open market housing in accordance with the Framework. But the benefits from allowing self-build provision on the site do not outweigh the harm to character and appearance I have identified. Moreover, there is no substantive evidence that local self-build or rural housing requirements cannot be met through proposals that accord with the Development Plan. The Council having a 5-year housing land supply is not in dispute.
11. Accordingly, whilst a UU has been submitted, the associated tests under Regulation 122 of the Community Infrastructure Levy Regulations 2010 do not require any further consideration because the development would be unacceptable for other reasons.

12. The appellant has brought my attention to a number of other appeal decisions¹, to further her case. However, the examples include circumstances that are not directly comparable to the context of the appeal scheme. In this case there would be harm and the harm identified is not outweighed by other benefits as the main overriding differences when compared to the other decisions referenced. The effects to landscape character and appearance are also unique to the appeal site location in question.

Conclusion

13. For the above reasons I dismiss the appeal.

M Shrigley

INSPECTOR

¹ APP/W1850/W/18/3201641, APP/L2630/W/17/3167831, APP/L2630/W/17/3180722, APP/P1615/W/18/3213122, APP/L3245/W/19/3224318, APP/W1850/W/18/3215131, APP/W1850/W/18/3215135, APP/W1850/W/18/3209710

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